

PENINSULA COMMUNITY THEATRE CONDITIONS OF HIRE

The Peninsula Community Theatre has a foyer, (“**Reception Room**”) and a theatre (“**Auditorium**”), which can be hired separately or together (“**Complex**”). In these Conditions of Hire, the Theatre, Foyer or Complex which an applicant seeks to hire or hires is referred to as the “**Venue**”.

1 Application

- 1.1 An application to hire a Venue must be made using the supplied application form(s) (“**Application**”) and submitted to the Booking Officer, Peninsula Community Theatre, Mornington Peninsula Shire Council (“**Council**”) at Private Bag 1000 Rosebud 3939.
- 1.2 An Application must include details of:
 - 1.2.1 the event or purpose for which the Venue is sought to be hired;
 - 1.2.2 the proposed time and date of the proposed hire of the Venue; and
 - 1.2.3 all other information requested in the application form(s) or by Council.
- 1.3 When an Application is made on behalf of a person, entity or organisation that is not the applicant, the applicant must provide evidence of the applicant’s authority to submit the Application as agent for the other person, entity or organisation. The applicant, or, if the applicant has submitted an Application as the agent of another, that person, entity or organisation, is referred to in these Conditions of Hire as the “**Hirer**”.
- 1.4 The Hirer may be required to provide evidence of:
 - 1.4.1 the purpose and/or objectives of the Hirer; and
 - 1.4.2 the incorporation of the Hirer.
- 1.5 Advice that a Venue is available for hire at a particular time does not constitute a reservation or booking of the Venue for that time. The Venue will only be reserved for the Hirer’s proposed hire when Council issues a Letter of Offer.

2 Formation of an Agreement for Hire

- 2.1 The submission of an Application is a proposal by the Hirer to hire the Venue on the terms of these Conditions of Hire. In response to the Application, Council may send a written offer (“**Letter of Offer**”) to the Hirer to enter into an agreement with the Hirer on the terms outlined in these Conditions of Hire, the Letter of Offer and, to the extent that it is not inconsistent with the Letter of Offer, the Application. If a Hirer wishes to accept the offer in a Letter of Offer, the Hirer must do so in writing. When such acceptance is received by Council, and any Deposit required by the Letter of Offer has been paid by the Hirer to Council (see clause 3.1 of these Conditions of Hire), an “**Agreement for Hire**” will come into existence.
- 2.2 An Agreement for Hire is evidenced by the Application, these Conditions of Hire, the Letter of Offer and any other correspondence or documents (other than the Application and Conditions of Hire) referred to in the Letter of Offer. In the event of any inconsistency between these documents, they shall take precedence in the order set out below (with the first named document being the highest in the order of precedence):

- 2.2.1 Letter of Offer;
- 2.2.2 any other correspondence or documents referred to in the Letter of Offer (other than the Application and Conditions of Hire);
- 2.2.3 Conditions of Hire; and
- 2.2.4 Application.

3 Payment of a Deposit and a Security Bond

- 3.1 The Letter of Offer may nominate a deposit to be paid by the Hirer with respect to the hire of the Venue ("**Deposit**"). The Hirer must pay the Deposit in the amount specified in the Letter of Offer. The Deposit must be received by Council by the date stated in the Letter of Offer. Failure to pay the Deposit by that date will result in the Venue being immediately available to be booked by any other person during the Hire Period or any part of the Hire Period.
- 3.2 The Hirer must pay a Security Bond in the amount and within the time specified in the Letter of Offer. Council may retain all or any part of the Security Bond to make good any default of the Hirer's obligations under the Agreement for Hire.

4 Hire Charges and payment terms

- 4.1 The Letter of Offer will state the amount of the Hire Charge. The Hire Charge is subject to change until the Hirer pays the Deposit in accordance with clause 3.1.
- 4.2 The Hire Charge includes:
 - 4.2.1 the fee for hiring the Venue;
 - 4.2.2 the cost of electricity, heating, and air cooling;
 - 4.2.3 the use of lamps (luminaries) and special effects available at the Venue; and
 - 4.2.4 the use of other basic items included in the Hire Charge by the Agreement for Hire.
- 4.3 The Hire Charge does not include:
 - 4.3.1 public liability insurance;
 - 4.3.2 rigging of lighting or audio requirements beyond the basic configuration or the alteration of same;
 - 4.3.3 ushers;
 - 4.3.4 return of lighting and audio to pre-set conditions or settings;
 - 4.3.5 the use of the projector or the lapel microphone;
 - 4.3.6 the cost of any fire, emergency services alarms, or attendance at the Venue by any emergency service that occurs during the Hire Period or in relation to the Hirer's hire of the Venue;
 - 4.3.7 theatrical scenic effects, props or wardrobe items or any kind; or

4.3.8 any other item not specifically included in the Hire Charge by the Agreement for Hire.

4.4 An invoice for the Hire Charge will be sent to the Hirer by Council with or following the Letter of Offer.

4.5 Full payment of the Hire Charge, and of any other invoice issued by Council to the Hirer for costs excluded from the Hire Charge, must be received by Council at least 30 days prior to the Hire Period. Council may terminate the Agreement for Hire if full payment is not received by Council 30 days prior to the Hire Period.

5 **Non-exclusive licence to use Venue**

5.1 Council grants the Hirer a non-exclusive licence to use the Venue for the Hire Period, for the purposes detailed in the Application, on the terms outlined in the Agreement for Hire.

5.2 Council staff shall have access to the Venue at all times, including during the Hire Period.

5.3 Council has absolute discretion to prohibit access by the Hirer to any or all operational areas of the Venue, including, for example, storerooms, the workshop or the kitchen.

5.4 The Hirer agrees that, if a Hirer has only hired the Reception Room or the Auditorium, Council has absolute discretion to hire the Auditorium (if the Hirer has only hired the Reception Room) or Reception Room (if the Hirer has only hired the Auditorium) to any other person during the Hire Period, provided that, in Council's reasonable opinion, the two events are compatible.

6 **Hire Period**

The Letter of Offer will state the earliest time that the Venue will be available for the Hirer to access and the latest time by which the Hirer must have cleaned and vacated the Venue (including all operational areas used by the Hirer or its invitees) and the surrounding land ("**Hire Period**").

7 **Assignment of the Agreement for Hire**

The Hirer cannot assign the benefit of an Agreement for Hire to any other person or entity.

8 **Alterations to the hire arrangements**

8.1 The Hirer cannot alter the Hire Period, the configuration of the seating, lighting or audio systems, or any other details about the hire arrangements set out in the Application, or the Letter of Offer, without Council's written consent.

8.2 Costs or expenses incurred by Council as a result of changes made to the hire arrangements are excluded from the Hire Charge and must be paid for by the Hirer prior to the Hire Period or, where the changes are made during the Hire Period, within 14 days from the end of the Hire Period. Council can retain any part of the Security Bond in satisfaction of such outstanding costs or expenses.

9 **Cancellation of hire by the Hirer**

9.1 Where written cancellation of the hire or is received by Council less than seven days prior to the Hire Period a cancellation fee equal to Hire Charge, plus any expenditure or cost that Council has incurred in relation to the Agreement for Hire, will apply.

- 9.2 Where written cancellation of the hire is received by Council less than 30 days (but more than seven days) prior to the Hire Period, a cancellation fee equal to 25% of the Hire Charge, plus any expenditure or cost that Council has incurred in relation to the Agreement for Hire, will apply.
- 9.3 Where written cancellation of the hire is received by Council more than 30 days prior to the Hire Period, a cancellation fee equal to any expenditure or cost that Council has incurred in relation to the Agreement for Hire, will apply.
- 9.4 Council shall be under no obligation to seek to hire out the Venue during any period for which it would otherwise have been hired by the Hirer, except for the Hirer's cancellation. If, however, Council does hire out the Venue to a third party during the Hire Period, the cancellation fee payable under clause 9.1, 9.2 or 9.3 (as applicable) shall be adjusted by deducting the nett return to Council of the fee paid by the third party from the cancellation fee.
- 9.5 All or part of any Deposit or Security Bond may be retained by Council to cover the whole or part of the cancellation fee payable by a Hirer under this clause 9.

10 Termination of Agreement for Hire

- 10.1 Council may terminate an Agreement for Hire at any time that:
- 10.1.1 the Hirer (or its invitees) breaches clause 1.4, 3.1, 3.2, 4.5, 7, 12, 13, 14, 15, 16, 17, 18.1, 21, 22.1 or 23.1; or
 - 10.1.2 the Hirer (or its invitees) commits a substantial breach of any other term of the Agreement for Hire; or
 - 10.1.3 unscheduled repairs, alterations or additions to the Venue become necessary or if the Venue is no longer suitable for the purpose for which the Hirer has hired the Venue.
- 10.2 If Council terminates the Agreement for Hire under clause 10.1.3, Council will refund the Hire Charge and Deposit to the Hirer less any costs incurred by the Council under the Agreement for Hire.

11 Cancellation of event or performance by Council

Council may prohibit a performance or event (or any part of a performance or event) if, in the reasonable opinion of Council, all or any part of a performance or event:

- 11.1 is dangerous;
- 11.2 is likely to infringe any copyright, performance rights or other intellectual property rights;
- 11.3 is prohibited by law; or
- 11.4 would be detrimental to the reputation of the Peninsula Community Theatre or Council.

12 Hirer's safety obligations

12.1 Hirer to comply with safety directions

The Hirer and its invitees must comply with all safety directions given by Council or Council's staff and all safety procedures or requirements displayed at the Complex.

12.2 Hazards Report

Fourteen days prior to the Hire Period, the Hirer must deliver a completed and signed Notification of Hazardous Event Conditions Report (“**Hazards Report**”) to Council. The Hirer’s stage manager/technical representative must complete, or be properly consulted in the preparation of, the Hazards Report. A pro forma (blank) Hazards Report is available from Council.

12.3 Electrical and electronic equipment

The Hirer must only bring into the Complex electrical and electronic equipment that has been tested by an authorised or qualified person and which bears a mark certifying that the equipment complies with any relevant Act, Regulation, Australian Standard or guideline relating to electrical and electronic equipment safety. Council staff may inspect any equipment being brought into the Complex by or for the Hirer and, if the certification mark on the equipment is due for renewal or the equipment is due for re-inspection within one month of the conclusion of the Hire Period, Council staff may require the Hirer to not use that equipment in any capacity in the Complex unless the equipment is re-certified prior to the Hire Period.

12.4 Entry to the Complex

Public entry to the Complex is through the main foyer doors of the building. Participating artists and production staff must enter and exit the Complex via the stage door during the rehearsal period and during performances.

12.5 Entry and exit doors

The Hirer must ensure that:

- 12.5.1 at all times, exits are kept clear so that they can be used in the event of an emergency;
- 12.5.2 at any time that members of the public are in attendance at the Complex, all doors of the Complex are unlocked and ready for use in the event of an emergency; and
- 12.5.3 at any time when members of the public are not in attendance at the Complex, all doors to the Complex are kept locked for security purposes.

12.6 Security issues

The Venue has a security system and an access code will be provided to the Hirer when the Hirer collects the code for the key safe at the Venue. The Hirer must not provide the access code, key safe code or the keys to the Venue to any person who is not directly responsible for unlocking and locking the Venue at the commencement of, during and at the end of the Hire Period. The Hirer must not make any copy of the keys to the Venue. The Hirer must ensure that the keys are properly secured in the key safe at the end of the Hire Period. If any key is lost by the Hirer, the Hirer must pay, on demand, the cost of the replacement of the locking system at the Complex.

12.7 Fire retardant

- 12.7.1 The Hirer must ensure that only scenery, props, costumes, decorations and similar things that are adequately flame retarded in accordance with any relevant safety standards are brought, or caused to be brought, into the Complex by or for the Hirer.

12.7.2 The Hirer warrants that all scenery, props, costumes, decorations and similar items brought or caused to be brought into the Complex by or for the Hirer are items which have been manufactured in accordance with any applicable flame or fire resistance standard or guidelines, or that the items are made out of materials which contain a flame retardant. The Hirer warrants that it has satisfied itself that all such items have been manufactured in accordance with any applicable fire safety standard or any building material standard.

12.8 **Supervision of minors**

The Hirer must ensure that all children (under the age of 16) are supervised at all times by parents or guardians.

12.9 **Compliance with laws**

The Hirer must comply with all Acts, Regulations, local laws or rules, including, but not limited to, the *Occupational Health and Safety Act 2004*, the *Local Government Act 1989* and the *Liquor Control Reform Act 1998*, and the Hirer will be liable for any breaches of any Acts, regulations local laws or rules. Any breach of any Act, Regulations, local laws or rules by the Hirer or its invitees may result in termination of the Agreement for Hire.

13 **Venue capacity**

13.1 The Hirer must not admit or permit to be admitted more people than the Venue's standard capacity as set out in this clause 13.

13.2 The Theatre has capacity for 460 people, which includes performers and attendant staff. The seating capacity of the Theatre is 400 people for a theatre performance, or 250 people for a sit-down style event.

13.3 The Hirer must stop or prevent the commencement of any performance or event if the capacity of the Venue is exceeded, or if the aisles, doorways and exits are not clear. If these situations are not immediately rectified, Council can immediately terminate the Agreement for Hire and require the Hirer and all persons at the Venue to vacate the Venue.

14 **Prohibited activities**

14.1 **Photography and other recordings**

The Hirer must not, without the prior written consent of Council, cause or allow any recording, film, telecast, broadcast or photographic record to be made in or around the Venue. Council may grant such consent subject to any terms and conditions.

14.2 **Hirer must not attach anything to any part of the Venue**

14.2.1 No surface, floor, wall, fixture or any other part of the Venue may be pierced or marked in any way by any nail, screw, tool or any other implement for any purpose whatsoever.

14.2.2 The Hirer must ensure that no scenery, fittings, smoke machines, pyrotechnic devices, slide, film, data projection apparatus, electrical installation, audio installation, visual installation, decorations, posters, advertisements, signs, flags, shields, emblems or any other thing is erected, fixed, hung or displayed in or on any part of the Venue without Council's prior written consent. If the Hirer wishes to attach any things to

any part of the Venue, it must pay any applicable additional or increased insurance premium, which is excluded from the Hire Charges.

14.2.3 The Hirer will be responsible for any damage caused by any item or thing being affixed to or removed from any part of the Venue.

14.3 **Smoking**

14.3.1 The Hirer must ensure that no smoking occurs within any part of the Complex.

14.3.2 The Hirer must ensure that where an event, performance or activity being conducted at the Venue is attended predominantly by underage people, no smoking by any person is permitted at the Complex, including all outdoor areas.

14.4 **Gambling**

14.4.1 The Hirer must ensure that no games of chance in which money is directly or indirectly passed as a prize are conducted at the Venue.

14.4.2 The Hirer must ensure that no raffles of any kind are conducted at the Venue unless the Hirer has obtained Council's prior written consent. Such consent will only be given where the Hirer has satisfied Council that the Hirer has obtained any requisite licence, registration or approval from the Victorian Commission for Gambling Regulation or any other relevant regulation agency for the raffle.

14.5 **Smoke machines**

14.5.1 Smoke machines must not be used under any circumstances.

14.5.2 The Hirer is liable for:

- (a) the cost of any attendance by any emergency services at the Complex in relation to any incident or alarm arising out of or connected to the use of a smoke machine; and
- (b) any damage to any part of the Complex or property that is caused directly or indirectly by the use of a smoke machine.

14.6 **No pyrotechnics, candles or flames of any kind**

The Hirer must ensure that no lit candles, naked flames of any kind, or any form of pyrotechnics, are used at the Complex and on the surrounding land.

14.7 **Noise levels**

The Hirer must not cause or permit the level of noise emitted at or from the Venue to exceed the noise limits outlined in the *State Environment Protection Policy (Control of Music Noise from Public Premises No. N-2)* (available online at www.epa.vic.gov.au) or to cause a public or private nuisance (as defined by *Public Health and Wellbeing Act 2008*).

14.8 **Animals**

The Hirer must not, with the exception of guide dogs and other service dogs, permit any animal to be at the Complex and on the surrounding land, without Council's written consent.

14.9 **Food sales**

The Hirer must not permit the sale of any type of food in the Reception Room without Council's prior written consent. Approval will only be given if the Hirer satisfies Council that all necessary permits for or in connection with the preparation or sale of food have been granted.

14.10 **Accessing front of house / backstage**

The Hirer must ensure that:

- 14.10.1 immediately following the conclusion of any performance, the house curtain is closed;
- 14.10.2 audience members do not use the stage to enter the backstage area; and
- 14.10.3 performers do not enter the front of house / floor area from the stage.

15 **Hirer to provide experienced and licensed staff**

The Hirer, at its cost, must provide staff for all "front of house" roles and must, provide relevantly experienced and, where necessary, licensed, persons to operate all lighting, audio and electrical equipment and stage machinery.

16 **Insurances**

16.1 **WorkCover and employee/volunteer related insurances**

- 16.1.1 If the Hirer employs or engages the services of any person who is deemed to be a worker under the *Accident Compensation Act 1985*, the Hirer must ensure that it effects a WorkCover policy of insurance complying with the provisions of the *Accident Compensation (WorkCover Insurance) Act 1993* in respect of all such persons. The Hirer must comply with any other relevant workers' compensation legislation and must, in the absence of any such legislation, or if so directed by Council, insure against any claims that may be made in respect of the death of or injury to any worker. Such insurance must be for an amount, with an insurer and in a form to the satisfaction of Council.
- 16.1.2 If the Hirer uses or the services of any volunteer, the Hirer must, if directed by Council in the Letter of Offer, effect and maintain a policy of insurance for an amount, with an insurer and in a form to the satisfaction of Council, in respect of all such volunteers.

16.2 **Indemnity**

The Hirer must indemnify, keep indemnified and hold harmless Council and all of Council's staff, contractors or agents against any liabilities, costs, penalties or additional premiums they may incur arising, whether directly or indirectly, from any provision of the *Accident Compensation Act 1985* which:

- 16.2.1 deems any employees or agents of the Hirer to be employees or workers of Council or Council's employees, contractors or agents; or
- 16.2.2 otherwise makes Council, or any of Council's staff, contractors or agents, in any way responsible for, or liable to pay any moneys to or in respect of, such persons, except for liabilities arising directly from the negligence of Council or any of Council's staff, contractors or agents.

16.3 Public liability insurance

The Hirer must, at all times during the Hire Period, be the holder of a current public liability policy of insurance ("**Public Liability Policy**") in the name of the Hirer providing coverage for an amount per event of at least that stated in the Letter of Offer. The Public Liability Policy must be effected with an insurer which is authorised to carry on non-life insurance business in Australia under the *Insurance Act 1973* (Cth). The Public Liability Policy must cover such risks, be subject only to such conditions and exclusions and be subject only to such excess as are approved by Council.

16.4 Evidence of insurance

16.4.1 Provision of evidence

The Hirer must produce to Council, for each policy of insurance referred to in clauses 16.1 and 16.3, copies of the policies of insurance, receipts showing that the policies are paid for the Hire Period and certificates of currency.

16.4.2 Failure to insure

If the Hirer fails to comply with its obligations under clauses 16.1, 16.3 or 16.4, Council may immediately terminate the Agreement for Hire.

16.4.3 Proof of failure to insure

Any failure by the Hirer to comply with its obligations under clause 16.4.1, will constitute conclusive proof of its failure to effect or maintain the insurances, as the case may be, for the purposes of clause 16.4.2.

16.5 Contractors

The Hirer must ensure that any contractor to the Hirer complies with clauses 16.1, 16.2, 16.3 and 16.4 as if it were the Hirer. For the avoidance of doubt, clauses 16.4.2 and 16.4.3 apply to any failure of a contractor to the Hirer as if the failure was made by the Hirer.

16.6 Council indemnified

16.6.1 Indemnity

The Hirer must indemnify, keep indemnified and hold harmless the Council, and its Councillors and staff, from and against all actions, claims, losses, damages, penalties, demands or costs (including, without limitation, all indirect losses, consequential losses and legal costs on a full indemnity basis) consequent upon, occasioned by, or arising from any negligent act or omission, breach of statute, breach of intellectual

property rights or breach of the Agreement for Hire in the course of, arising from or in connection with the Hirer's hire of the Venue.

16.6.2 Acts of employees and others

The indemnity of the Hirer under clause 16.6.1 extends to any acts or omissions of the Hirer's agents, employees, contractors, volunteers, agents or invitees.

17 Occupational health and safety

17.1 General OH&S requirements

17.1.1 The Hirer must, at all times, identify and take all necessary precautions for the health and safety of all persons who may be present at the Venue during the Hire Period.

17.1.2 The Hirer must inform itself of all occupational health and safety ("OH&S") policies, procedures and measures implemented or adopted by Council. The Hirer must comply with all such policies, procedures or measures.

17.1.3 The Hirer must immediately comply with any and all directions by Council relating to any OH&S matter or issue.

17.2 Legislative compliance

The Hirer must ensure that it, its employees, volunteers, contractors, agents and invitees comply with all Acts, regulations, local laws, codes of practice and Australian Standards which are in any way applicable to OH&S.

18 Hirer liable for all damage to the Complex, land and property

18.1 The Hirer must take all reasonable care to ensure that it and all of its invitees or members of the public maintain and preserve the good order and condition of the Complex and its surrounds at all times.

18.2 The Hirer is responsible for any and all loss of or damage to all property used or present at the Complex during the Hire Period.

18.3 The Hirer must pay, on demand, for the cost of repairs of any damage to the Complex, the surrounding land, fittings, fixtures, furniture, curtains, equipment (either mechanical or electrical) or any other goods at the Complex, that occurs during the Hire Period, which is not caused by reasonable wear and tear. Council may use all or part of the Security Bond to cover the cost of repair of such damage.

19 Cleaning

19.1 The Hirer must leave the Venue in the same condition as the Venue was in at the commencement of the Hire Period. All cleaning must be completed by the end of the Hire Period, unless prior written approval has been obtained from Council.

19.2 The Hirer must remove all rubbish, refuse and waste in accordance with the checklist provided at the Venue or provided by Council to the Hirer.

19.3 Council will provide mops, brooms and a vacuum cleaner for the Hirer's use for cleaning purposes.

- 19.4 At the end of the Hire Period, if Council determines that additional cleaning is reasonably necessary because the Hirer has not adequately cleaned the Venue, or the Venue is not in the condition that it was in prior to the commencement of the Hire Period, the Hirer must pay for the cost of that additional cleaning.

20 Promotional material or publicity

- 20.1 The Hirer must not, without Council's written consent, publicise or promote its use of the Venue, or produce any material about the Hirer's proposed hire or use of the Venue, prior to the formation of an Agreement for Hire under clause 2 of these Conditions of Hire.
- 20.2 In any publication of any kind about the Hirer's event or use of the Venue, the Hirer must include the following information:
- 20.2.1 Venue details –
- Peninsula Community Theatre
Wilsons Road
Morningson ; and
- 20.2.2 and any other information that the Letter of Offer states is required to be included.
- 20.3 If the Hirer produces material about the Hirer's hire of the Venue prior to the formation of an Agreement for Hire which does not include the information required by clause 20.2, the Hirer must produce supplementary material that includes the information required by clause 20.2, and that material must either replace or be attached to the original material.

21 Copyright and other intellectual property rights

- 21.1 The Hirer warrants that it has ownership of the copyright in, or an appropriate licence to use, copy or replicate, any literary or other work (for example, artwork, image, data, printed material of any kind, etc) that is subject to any copyright, that is displayed or used in any way in connection with the Hirer's hire or use of the Venue.
- 21.2 The Hirer warrants that it has ownership of the copyright in, or an appropriate licence to use, perform or adapt, any musical or dramatic work that is performed at the Venue, or in any way in connection with the Hirer's hire or use of the Venue.
- 21.3 The Hirer must not infringe or breach, or allow to be infringed or breached, any copyright, performing right or any other intellectual property right, in any way in connection with the Hirer's use of the Venue, or any event or performance held at the Venue during the Hire Period.
- 21.4 The Hirer agrees to indemnify, keep indemnified and hold harmless, Council against any action, claim, loss, damage, costs (including legal costs) or any other liability howsoever arising in relation to a breach of any copyright, performance right or any other industrial or intellectual or other protected right, by the Hirer, its invitees or any members of the public in any way in connection with:
- 21.4.1 the Hirer's hire of or use of the Venue;
- 21.4.2 any reproduction, recording, performance or adaptation of any musical, literary, or dramatic work in connection with the Hirer's hire or use of the Venue (whether before, during or after) the Hire Period; or

- 21.4.3 any replication or publication of any work or material in any way connected to the Hirer's hire or use of the Venue or any event or performance held during the Hire Period.

22 Hirer's access to Venue

- 22.1 The Hirer must not access or use any part of the Venue prior to the commencement of the Hire Period.
- 22.2 No items (including, but not limited to scenery, instruments, wardrobe, accessories or any other equipment ("**Items**")) will be permitted into the Complex earlier than the first day of the Hire Period. The Hirer must not arrange for the delivery of any Items to the Complex without having first obtained prior written permission from Council. All Items must be removed from the Complex by the end of the Hire Period, unless prior written approval has been obtained from Council.

23 Venue set-up - stage configuration, rigging, electrical, audio or lighting systems, etc

- 23.1 Council's staff will supervise the rigging of all stage lighting, audio equipment or electrical equipment. Alterations to the existing audio or stage lighting systems must only be made by Council's staff.
- 23.2 All additional audio, lighting or electrical equipment required by the Hirer must be organised by the Hirer and the operation of that equipment will be the Hirer's responsibility. No additional audio, lighting or electrical equipment can be brought into the Complex without written prior approval of Council. The Hirer agrees to indemnify, keep indemnified and hold harmless Council in relation to any loss, damage or injury of any kind incurred as a result of the use or otherwise of that additional equipment.
- 23.3 The cost to Council for making any alterations to the agreed stage configuration, rigging, electrical, audio or lighting systems (as outlined in the Letter of Offer), will be charged to the Hirer and is excluded from the Hire Charge. The Hirer is responsible for the cost of restoring the audio or stage lighting set-up to the original settings prior to the end of the Hire Period.
- 23.4 Council or the Theatre will not provide any set, materials, paint, brushes or equipment for the building of scenery, or supply any items other than those specified in the Letter of Offer or as otherwise agreed to in writing by Council.

24 Exclusion of Council's liability and Hirer's indemnification of Council

- 24.1 The Hirer agrees to indemnify, keep indemnified and hold harmless Council from and against all claims, loss, damage and costs (including legal costs) suffered or incurred directly or indirectly by Council by reason of or in relation to the use of the Venue or any part of the Complex by the Hirer, its employees, volunteers, contractors and invitees, including, but not limited to, claims arising from or concerning:
- 24.1.1 any accident, damage or injury to or loss of property in the Complex;
- 24.1.2 any accident, damage or injury suffered by any person or to the property of any person in or about the Complex;
- 24.1.3 the sale of tickets to enter the Complex;

- 24.1.4 any breach by the Hirer or its invitees of any copyright, performance rights or any other intellectual property rights in accordance with clause 21.4 of these Conditions of Hire;
 - 24.1.5 any breach by the Hirer of the Agreement for Hire;
 - 24.1.6 any termination of the Agreement for Hire or cancellation of any part of an event or a performance by Council under clause 10 or 11 of these Conditions of Hire;
 - 24.1.7 the failure by the Hirer to obtain any necessary licence, permit, authority, approval or consent required to be obtained by the Agreement for Hire;
 - 24.1.8 installation and removal of any additional fittings, decorations or furnishings, including, without limitation, staging and seating;
 - 24.1.9 the engagement of artists, performers and other personnel required for the Hirer's event and/or performances, or in any way connected to the Hirer's use of the Complex;
 - 24.1.10 the transportation of the personnel, equipment, fittings, scenery, curtains and materials necessary for any aspect of the Hirer's event and/or performances or in any way connected to the Hirer's use of the Complex;
 - 24.1.11 any action or negligence of the Hirer or its invitees;
 - 24.1.12 the quality, nature, content, duration or expectation of the Hirer's event and/or performances, or any change to them;
 - 24.1.13 the consideration or implementation by the Council of any requests made by the Hirer in relation to the event and/or performances;
 - 24.1.14 the non-payment of any money due from the Hirer to the Council.
- 24.2 The Hirer agrees to enter and use the Venue or any part of the Complex at its own risk and releases the Council from any and all claims and demands of any kind and from any liability that may arise in respect of any accident, damage or injury occurring to any person or property in or about the Complex associated with the Hire's hire of the Venue or the Hirer's event and/or performances.
- 24.3 Any power, right or discretion conferred on the Council with respect to the selection or approval of any publication, event, performance, works, equipment, food sales, or any other thing, by the Agreement for Hire shall not be deemed to impose upon the Council any responsibility for the selection or approval of those publications, events, performances, works, equipment, food sales, or any other thing, that are undertaken, conducted, performed or presented by the Hirer or its invitees during the Hire Period.
- 24.4 The Council is not liable for indirect, special or consequential loss of the Hirer irrespective of how or why the loss is suffered or incurred.

25 Interpretation of the Agreement for Hire

- 25.1 A reference to any Act, regulation, local law, standard or guideline includes all Acts, regulations, local laws, standards or guidelines amending, consolidating or replacing same.

25.2 **Status of Hirer**

25.2.1 All references to the Hirer in the Agreement for Hire includes all of its employees, volunteers, agents, contractors and assigns.

25.2.2 If the Hirer consists of two or more parties, the Agreement for Hire shall bind each of them jointly and severally.

25.3 **Whole understanding**

The Agreement for Hire constitutes the whole understanding between the parties and embodies all terms and conditions in respect of the hire of the Venue by the Hirer. All previous negotiations and understandings between the parties on this subject matter shall cease to have effect upon the formation of the Agreement for Hire.

25.4 **No waiver**

No time or other indulgence granted by Council to the Hirer or any variation to the terms and conditions of the Agreement for Hire or any judgment or order obtained by Council against the Hirer will in any way amount to a waiver of any of the rights or remedies of Council in relation to the terms of the Agreement for Hire.

25.5 **Acts to be done by Council**

Where the Agreement for Hire requires Council to give its authorisation, approval or consent for any matter or thing, such authorisation, approval or consent can be provided in writing by Council's Booking Officer or Theatre Manager.

25.6 **No fettering of Council's powers**

It is acknowledged and agreed that the Agreement for Hire does not fetter or restrict the powers or discretions of Council in relation to any powers or obligations it has under any Act, regulation or local law that may apply to the Agreement for Hire, the Hirer, or Council's municipal district.