

Willoughby City Council Performing Arts Unit (WPAU)

General Terms and Conditions of Hire

PART B

Proudly Operated by the Performing Arts Unit of Willoughby City Council

Zenith Theatre & Convention Centre

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Scope: General Terms & Conditions

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Team: WPAU – Willoughby Performing Arts Unit

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1. Venue Hire Charges

The Hirer will pay Willoughby City Council the amounts set out in Schedule One (1) for the hire of the Venue. The Hirer is aware of all hiring fees and charges for other services associated with the use of the Venue.

2. Deposit

The Hirer will, within 14 days of making a tentative booking, pay a deposit, 50% of the venue hire charges total amount payable (excluding any bond that is payable), which will be applied (as set out in Clause 9). If the deposit is not received by this date, Council may cancel the tentative booking and hire the Venue to another Hirer.

If a booking is made within 14 days of the event, 100% of venue hire charges are payable in order to confirm your booking.

3. Final Payment

At the conclusion of your event, the final invoice will be issued. The balance of the payment must be made at least 14 days prior to the first booking date.

4. Changes to Requirements

Any changes requested by the Hirer within 24 hours of the hiring period may incur a fee of \$130.00 (inc. GST) in addition to any other hiring fees and charges. Council may require payment of any sum payable under this clause within 7 days of the change being accepted by Council and prior to the first booking date.

5. Bond

Council may require a Security Bond. The Security bond will be refunded if the Venue is left in a satisfactory condition. If any additional charges (e.g. cleaning or repairs) are incurred either before, during or after the event these costs will be deducted by Council from the Security Bond.

6. Insurance

The Hirer is to put in place, and keep in force during the currency of the Agreement, at its own cost;

- a. Public and Products Liability insurance policy with a limit of indemnity of not less than TWENTY (20) MILLION DOLLARS and a deductible (excess) of no more than \$500.
- b. Workers Compensation insurance.
- c. Personal Accident, Theft or Breakage Insurances.

Council may request a higher limit of indemnity in certain cases. A Certificate of Currency must be provided at least 7 days prior to the event. Should this condition not be complied with, entry to the Venue shall not be permitted.

7. Indemnity for Hirers and their Agents

The Hirer will indemnify Council for and against all damages, actions, suits, claims, costs and demands, which may be made or recovered against the Council by any person whatsoever in respect of any loss, injury (including death) or damage sustained whilst in

or upon the Council's premises except to the extent that such loss, injury or damage is caused by the negligence of Council, its employees or agents.

Where this Agreement covers Crown Land, the Hirer shall indemnify the Minister administering the *Crown Lands Act 1989* in like manner to the above.

8. Late Conclusion

If an event is to conclude after the time noted in Schedule One (1) additional fees will be on-charged to the Hirer at the conclusion of the event in 30 minute increments. Council can conclude the event at the time noted in the Schedule where the time extension is not operationally possible.

9. Cancellation

a. Cancellation by Hirer

If the Hirer cancels the booking more than 28 days prior to the event commencement, Council will retain the 100% of the Deposit as a cancellation fee.

The deposit will only be refunded to the Hirer in the event another party books the Venue for the same period as the cancelled booking.

Should a confirmed event cancel within 28 days prior to the event commencement, the full venue hire amount as specified in Schedule One (1) is payable.

b. Cancellation by Council

Council may at any time before the event, cancel the hire of the Venue by giving written notice of such cancellation to the Hirer. If Council cancels the hire pursuant to this Clause 9b, all monies paid will be returned to the Hirer. The Council is not liable to the Hirer for any loss or damage suffered by the Hirer as a result of such cancellation.

c. Termination for Breach

If, at any time, the Hirer is in breach of a material term of this Agreement, Council may, in its own absolute discretion cancel the hire of the Venue by giving written notice of such cancellation to the Hirer. Should the hire of the Venue be cancelled pursuant to this Clause 9c, the full room hire amount specified in Schedule One (1) shall be payable by the Hirer.

d. Force Majeure

If either party to the Agreement is rendered unable wholly or in part to carry out their obligations under this Agreement, both parties will utilise reasonable endeavours to mitigate the effects of a force majeure event. Subject to availability of the Venue, an event may be rescheduled solely at the discretion of Council. Costs associated with any form of relief granted under a force majeure event shall be borne by the Hirer.

A "force majeure" event may refer to an act of God, a strike, a lockout, an act of public enemy, civil commotion, war, blockade, riot, state of emergency, lightning, fire, storm, flood, washout, explosion, Government restraint, or any form of Governmental intervention and any other cause which is not within the control of the party alleging it.

10 Use of Venue

The Hirer may only use the Venue for that which is agreed to by Council and noted in Schedule One (1).

11 Access to the Venue

Non exclusive occupancy: Council retains the right to control the Venue including all means of ingress and egress, the timing of the opening and closing of doors and the admission of the public (including the right to refuse admission to any person or persons). Council also retains the right to allow use by other Hirers of the Venue at any time during the hire period provided that such usage does not interfere with the principal Hirer's activities.

12 Ingress and Egress

The Hirer shall comply in every respect with all regulations relating to public buildings and overcrowding and obstruction to passages, corridors, ramps or any other part of a facility or event area. If any path is obstructed, the Hirer must clear any article/s causing such an obstruction immediately or be in breach of the terms of the hiring Agreement.

13 Ticketing

The issue of all tickets of admission are subject to the direction of Council. The Terms and Conditions of ticketing will be subject to Venue Management decision if an alternative ticketing agent is used. This will incur a surcharge and the hirer will be responsible for ticketing staff and administration.

The Hirer must ensure that the requested hire times allow for the Box Office to be open for ticket sales and collections a minimum of one hour prior to each performance.

14 Companion Card

Council Venues are affiliated with the NSW Government's Companion Card program. Hirers are required to accept valid Companion Cards when they are presented by authorised card holders. Accompanying carers of Companion Card holders are entitled to free admission into all events or performances held at Council Venues. The use and acceptance of Companion Cards must comply with Companion Card Terms and Conditions.

15 Crowd Control and Staffing

The Hirer must provide security / ushers approved by Council at the cost of the Hirer. Minimum crowd control staffing numbers required by Council is noted in Schedule One (1) and the standard fees documentation.

16 Maximum Capacity

The event shall be limited to the maximum capacity of the Venue as noted in Schedule One (1). It is the responsibility of the Hirer to ensure this is not exceeded. Council may stop the event or close the Venue until the Hirer rectifies the breach.

17 Child Protection

Council strictly enforces all provisions of the *Child Protection (Prohibited Employment) Act 1998* and the *Child Protection (Offenders Registration) Act 1998* as they relate to Council premises and Council representatives or agents.

The Hirer agrees to be responsible for their compliance to these Acts and the compliance of their staff, agents or contractors.

18 Copyright/Licences

The Hirer must not infringe or allow others to infringe, any copyright, performing right or other protected right involved in any performance, or use of the Venue.

The Hirer shall indemnify Council against all claims, demands or actions arising from any such infringement or breach. Prior to any performance or use covered by this Agreement, the Hirer will obtain from the Australian Performing Rights Association Limited (APRA), Phonographic Performance Company of Australia LTD (PPCA) or other appropriate individual or organisation all such licenses as may be required for the use of such works as are subject to copyright or other performing rights.

19 Photography, Broadcasting and Television Recording

The Hirer must inform Council in writing of any intention to photograph, broadcast, televise or record any activity within the Venue during the hire period.

The Hirer must pay all fees and costs resulting from such activities, and must include in any photography, television, or broadcast such material and information that maybe required by the Council.

20 Additional Facilities, Equipment and Services

Council may allow the Hirer in some cases to use additional equipment and services, not provided by Council. Any facilities, equipment and services must be operated and maintained in accordance with any written or verbal direction given by Council offices at any point in time. **A Risk Assessment and Work Method statements must be completed for all external facilities, equipment and services.** The Venue Management reserves the right to alter the security arrangements subject to the outcome of this assessment process.

This includes connection to or interference with the electrical installation, lighting, audio or visual systems within the Venue. Electrical equipment must be tested and tagged prior to being brought into the Venue. Any equipment not approved by Council will not be allowed on-site.

21 License and Approvals

The Hirer is responsible for obtaining all necessary permits and approvals for all activities. The Hirer must ensure that all equipment and vehicles are only operated by people holding appropriate licences and permits in accordance with relevant State legislation.

22 Furniture, Fixtures, Equipment and Content

The Hirer shall not remove or cause the removal of any furniture, fixture, item of equipment or any other content owned by Council or by third parties from their usual position without written approval from Council.

23 Additions or Alterations

The Hirer will not, unless approved by Council in writing, make any addition or alterations to the structure, facilities, goods, equipment or decoration of the Venue.

24 Deliveries/Couriers

Unless by prior arrangement with the Venue Management, deliveries and pick-ups must take place during the hire period and the Hirer must be on-site to accept the goods. Unexpected deliveries may be refused. Council representatives or agents will not dispatch goods from the Venue or sign consignment notes on behalf of the Hirer and are not responsible for theft or damage of delivered goods.

25 Departure from Venue

The Hirer shall leave the Venue and all facilities in a clean, safe and proper condition as at the commencement of the hire period. Any additional goods, materials and equipment brought into the venue by the Hirer must be also be removed at the end of the hire period. Any items remaining will become property of WPAU. Council shall not have any liability in respect to loss of or damage caused to goods left in the Venue at the conclusion of the hire period as agreed in Schedule One (1).

26 Smoking

Smoking is not permitted within Council Venues.

27 Risk Management

The Hirer must provide and maintain, at all times, an environment that is safe and without risks to the health of all persons employed for or visiting the event and the public at large.

The Hirer should be familiar with NSW Occupational Health and Safety legislation. The Hirer must provide evidence of a completed Risk Assessment undertaken for an event and the health and safety controls that have been put into place at least one month prior to commencement of the hire period. When required, Safe Work Method statements should also be completed.

Any person found working under the influence of drugs or alcohol will be asked to leave the premises.

28 Explosives, Flammable Liquids or any other Dangerous Goods

The Hirer must not bring into or use in, or permit to be brought into or used in, the Venue or any other part of the building explosive, fuel, or flammable liquid or substance.

Venue Management must approve the use of pyrotechnics, candles, smoke machines; hazer's or oil crackers at minimum one month prior to the commencement of the hire period. Arrangements for the isolation of smoke detectors/alarms will be organised by the Venue Management and all associated costs will be passed on the Hirer. Council reserves the right to decline any approval.

The Hirer must not bring or permit others to bring any other dangerous good or item such as, ammunition, firearms or weapons into any Council Venue without the express prior written consent of the Council. Such consent must be obtained at minimum one month prior to the commencement of the hire period. Council reserves the right to decline approval to requests received after this time.

29 Fire Retardant

All scenery, properties, drapes etc. for use in the Venue by or on behalf of the Hirer must be rendered fire-retarded before being brought on-site. A certificate of such treatment must be produced on request. Polystyrene and other such materials that cannot be treated with fire retardant are not permitted for use in Council Venues.

30 Noise

The Hirer must ensure that music and noise levels are restricted to a safe and reasonable level. The noise emissions shall not exceed normal background noise level when measured at the nearest boundary of any residential property outside of the Venue. The Hirer must comply with any reasonable request by any person to mitigate any such nuisance.

31. Glitter

The use of glitter greatly increases the cost and difficulty of cleaning. Please therefore note that glitter is not permitted to be used on set, prop pieces or costumes. Glitter hair spray and body glitter is also not permitted. If you feel this policy restricts your presentation venue management would be happy to discuss extra charges.

32 Animals

No pets, animals or birds are allowed in Council Venues/Facilities without written permission from Council. Registered guide dogs are exempt.

33. Regulations

The Hirer, and his or her agents must comply with all relevant Acts, Regulations and any other legal requirements relating to the use of premises within the jurisdiction of NSW and/or relating to the conduct of performances, activity or events.

34. Catering

Council operates a number of Venues under preferred Catering Agent agreements. All details regarding catering arrangements **must be confirmed 7 days prior** to the event date.

In the instance the hirer requests to use a non-preferred catering agent, this request must be sent in writing to the WPAU. If approved, **a 10% service fee** will be charged in addition to the Venue hire costs. Commission fees reflect the costs associated with the delivery of service and maintenance of the Venue.

35. Liquor Licensing

UNDER LIQUOR LICENSING PROVISIONS NO ALCOHOL MAY BE BROUGHT INTO THE VENUE EXCEPT BY THE LICENSEE AND NO ALCOHOL MAY BE CONSUMED IN ANY PART OF THE VENUE EXCEPT IN THE LICENSED AREAS.

Note:

- a) Where a Venue has an operating Liquor Licence the terms of that licence must be followed.
- b) Where a Venue has no licence but one can be obtained this will still be at the discretion of Council.
- c) Where a Venue can not obtain, or has no liquor licence, no alcohol may be consumed or brought on-site under any circumstances.
- d) No person under the age of 18 years shall be served alcoholic liquor or allowed to consume alcoholic liquor.

- e) The Hirer shall be responsible for the conduct of patrons attending the event.

36. Merchandise

In the event of a Hirer wishing to sell merchandise or programmes in the Venue, a 12.5% commission of all sales on the gross receipt will be payable to Council unless this is waived by Council in writing.

37. Advertising and Signage

The Hirer must comply with Council's policy covering "Signage Conditions" and the directions of the Venue Management.

38. Use of Council Owned Image

The Hirer can not use in any of its promotional material any image or logo of a Council Venue without the express permission of Council.

39. Presentation Standards

Council may require the Hirer to remove any material (including cartons, boxes, and handwritten signs and display materials) which is detrimental to the presentation standards of the Venue. The Hirer must comply immediately with any such request.

40. Council Representatives

Venue Management Staff and Uniformed Council representatives may be present at every event.

41. Right of Entry

Council's authorised representatives or agents may enter and inspect the Venue or any part of it at any time. The Hirer must not obstruct them or any member of the police force, fire brigade, ambulance service or any other emergency service, from entering the Venue.

42. Lost Property

Only Council staff may enter, examine and search the Venue for lost property after the termination of the hire period. Any property found will be registered and disposed of in accordance with Council policy.

43. Hirer's Employees and Agents

All persons engaged or employed by the Hirer in connection with the hiring of the Venue must comply with the provisions of this Agreement, and the Hirer agrees to accept responsibility for any failure on the part of his or her agents, employees and contractors to observe and comply with these provisions. The Hirer must ensure that all agents, employees and contractors are familiar with the requirements of any applicable NSW Occupational Health and Safety Legislation.

44. Criminal Acts

Without exception, all acts deemed to be of a criminal nature by the Venue Management will be referred to the Police. Details relating to a hire, Hirer and/or any other information

that Council has available in relation to the hire and any other associated activities will be provided to the Police upon their request.

45. Disorderly Behaviour

No obscene or insulting language, disorderly behaviour or damage to property shall be permitted in any part of the Venue.

46. Prohibition of Assignment

This Agreement is personal. The Hirer cannot transfer, assign, sub-let or sub-hire his or her rights under this Agreement.

47. Waiver

The provisions of this Agreement, and all associated documentation can only be varied by Council and in writing.

48. Interest

Council may require the Hirer to pay interest on all monies outstanding to Council for any period in excess of thirty (30) days after the sum becomes due for payment, at the standard Council interest rate payable on overdue rates.

49. Serving of Notices

Any notice will be served upon the party or parties at the address set out in Schedule One (1).

50. Price Rise

The Hirer acknowledges that all charges have been calculated in accordance with the fees for the financial year 2017 - 2018. If the Venue is booked for an event after the 1 January 2018, the amount payable for that event may be increased or adjusted by Council to reflect the pricing structure in place at the time of the event.

51. Surcharges

All surcharges are noted in the standard fees and charges for the Venue and will be incorporated in the costing shown in Schedule One (1). Surcharges will be listed in your final invoice.

52. Council Support

Any support, funding or waiver of fees for a hire does not constitute any liability, partnership or involvement in an event on the part of Council unless otherwise stated in writing.

53. Safety and Emergency Evacuation Procedures

The Hirer must comply with the safety and emergency procedures of each Council owned Venue. See Schedule Three (3) for these procedures.

54. Special Conditions

The Council reserves the right to impose further Special Conditions on the granting of a Contract of Hire and any such Special Conditions shall be specified in Schedule Two (2).