

### ENCORE EVENTS CENTRE CONDITIONS OF HIRE

These conditions of hire apply to the use of Encore Events Centre, 80 Derrimut Road, Hoppers Crossing 3029 ('the venue'), which is owned and operated by Wyndham City Council ('Council').

By submitting an Event Enquiry Form, the hirer agrees to be bound by these conditions of hire.

These conditions of hire should be read in conjunction with any relevant venue information, e.g. the hirer's Event Enquiry Form, Event Order Estimate, Event Order Confirmation, current venue hire fees and any other Council correspondence relating to Encore Events Centre.

Submission of an Event Enquiry Form does not confirm a booking. Bookings will only be confirmed once all security bonds and deposits are paid and Council has issued the hirer with an Event Order Confirmation.

#### 1. HIRER

- 1.1. Where the hirer is a group, company or organisation, the person submitting the Event Enquiry Form is jointly and severally liable together with the group, company or organisation to ensure compliance with these conditions of hire, including with respect to the payment of fees.
- 1.2. Where the hirer has indicated that they are a not-for-profit organisation or incorporated entity, they must provide evidence of this status with their Event Enquiry Form. Council will assess applications for discounts in accordance with its [Community Discount Guidelines](#).

#### 2. USE OF THE VENUE

- 2.1. The hirer agrees to use the venue for the purpose of the event during the booking period only, and must not use the venue for any other purpose or outside of the booking period.
- 2.2. The hirer must not conduct, or allow to be conducted, any activity at the venue which is dangerous, noxious, offensive, illegal, excessively noisy or objectionable.
- 2.3. The hirer acknowledges and agrees that except where the entire venue has been booked by the hirer, the hirer's use of the venue is not exclusive.

#### 3. USE OF EQUIPMENT

- 3.1. The hirer must provide all additional equipment for its event beyond that which Council agrees to provide in the Event Order Confirmation. The hirer must obtain Council's prior written consent to use any additional equipment, such consent to not be unreasonably withheld.
- 3.2. Any additional equipment used by the hirer during the booking period must be used in accordance with the manufacturer's directions. All electrical equipment must have a current test and tag certification in accordance with Australian Standard AS 3760. Electrical equipment which has not been tested and tagged must not be used.
- 3.3. The hirer must ensure that all persons using or operating the equipment (including the equipment supplied by Council) are appropriately experienced, trained and/or qualified to do so. Relevant licences, certificates and qualifications must be provided to Council on request. The hirer acknowledges and agrees that where Council reasonably believes that a person is not experienced, trained or qualified to use or operate the equipment, Council may require the hirer to use Council staff to operate the equipment, at the hirer's cost.

#### 4. RESTRICTED ITEMS

The hirer may only use, or allow the use of, the following items at the venue with Council's prior written consent and subject to any other requirements that Council advises:

- (a) show effects, including but not limited to smoke machines, indoor fireworks, confetti cannons and strobe lighting;
- (b) sparklers, candles or other items with a naked flame or smoke; or
- (c) glitter, confetti, uncooked rice; or
- (d) balloons.

### 5. PERFORMANCES

If the event is a performance, the hirer:

- (a) acknowledges and agrees that at least two event personnel must hold a current Level 2 First Aid qualification, evidence of which must be provided on Council's request;
- (b) must ensure that all performers, musicians, technical and backstage crew and event personnel enter and exit the venue via the entrances and exits as advised by Council;
- (c) acknowledges and agrees that a maximum of 190 people (including Council staff) are allowed backstage and in the stage areas at any time;
- (d) must provide at least one person to monitor backstage access. If the hirer does not provide a suitable person, Council will provide a person at the hirer's cost;
- (e) must provide Council with the total number of persons requiring backstage access during the booking period at least 7 days before the start of the booking period;
- (f) must ensure that all persons requiring backstage access wear any Council-issued identification in accordance with Council's directions; and
- (g) must inform Council in writing if the performance will, or is likely to, contain adult content or themes, nudity or coarse language.

### 6. SAFETY

- 6.1. At least one person must undergo a venue safety induction at the start of the booking period, who must remain at the venue for the entire booking period.
- 6.2. The hirer must, as soon as is reasonably possible in the circumstances, notify Council of any incident, accident, injury or damage that occurs during the booking period.
- 6.3. The hirer must not do or permit anything to be done at the venue which, in the opinion of Council, may be a risk to any person or property.
- 6.4. The hirer must not damage, remove or otherwise interfere with any part of the venue, or fixtures, fittings, plant and equipment at the venue. The hirer is responsible for all costs associated with any such damage or loss.

## 7. COVID-19

The hirer must comply, and ensure that all event attendees comply with:

- (a) all current State and Commonwealth Government directions, requirements and guidelines in respect of COVID-19; and
- (b) any additional requirements in response to COVID-19 that Council may impose from time to time.

## 8. CONCLUSION OF EVENT

- 8.1. The hirer must ensure that all attendees leave the venue in a quiet and orderly manner and do not unnecessarily disturb others, including other venue attendees or nearby residents.
- 8.2. At the end of the booking period, the hirer:
  - (a) must vacate the venue;
  - (b) must ensure the venue is left in a clean and tidy condition, and otherwise in the same state it was in prior to the start of the booking period;
  - (c) must remove any property brought into the venue during or for the purposes of the booking by any person and make good any damage to the venue caused by the removal;
  - (d) acknowledges that any property not removed from the venue at the end of the booking period will be deemed to be abandoned and will be disposed of by Council acting reasonably in the circumstances; and
  - (e) agrees that it is responsible for any costs incurred by Council for the disposal of abandoned items.
- 8.3. Where the hirer's booking period involves multiple non-continuous periods, the hirer must vacate the venue in accordance with clause 8.2 between each period.

## 9. BOOKING CONFIRMATION AND CHANGES TO EVENT DETAILS

- 9.1. Submission of an Event Enquiry Form does not constitute confirmation of a booking. A booking is not confirmed until Council has issued the hirer with an Event Order Confirmation and the security bond and deposit are paid.
- 9.2. The hirer must advise Council as soon as possible in the circumstances of any material changes to their booking and/or event. Any changes to the required equipment, venue set up, catering and beverage requirements or number of event attendees must be advised at least 7 days prior to the start of the booking period.

## 10. FEES AND PAYMENT

- 10.1. If the hirer's booking is accepted, Council will issue the hirer with an Event Order Estimate setting out the proposed event details and estimated event costs. Provided that the hirer accepts the Event Order Estimate within the time specified, the event details and event costs will be finalised and Council will issue an Event Order Confirmation.
- 10.2. The hirer must pay the deposit and security bond as specified in the invoice issued by Council within the time specified. If the hirer does not pay the deposit and security bond within the time specified, their booking will not be confirmed.

- 10.3. The hirer must pay the remainder of the full booking amount within the time specified on the Event Order Confirmation and/or the invoice issued by Council.
- 10.4. Where the hirer has agreed to accept additional costs (e.g. additional catering or equipment, extension of booking period, etc.) or has not vacated the venue by the end of the booking period, the hirer will be charged in accordance with the rates set out in the Event Order Confirmation. Council will issue the hirer with an invoice for these additional costs which the hirer must pay within the time specified on the invoice.
- 10.5. Access to the venue prior to the start of the booking period is at Council's discretion and may incur additional charges.
- 10.6. Except where a clause in these conditions of hire provides otherwise, the hirer will not be entitled to any refund of payments made in respect of the booking.

## **11. SECURITY BOND**

- 11.1. Council will advise the hirer if a security bond is required to be paid, and if so, the amount of the security bond payable.
- 11.2. The security bond is payable by the hirer and is to be used as security against any damage caused to the venue and/or any other breach of these conditions of hire.
- 11.3. Subject to clause 11.4, a refund of the security bond will be made within 30 days of the end of the booking period.
- 11.4. Deductions from the security bond may be made by Council for any reasonable cause including, but not limited to:
- (a) additional costs as agreed by the hirer;
  - (b) damage caused to the venue or any fitting, fixture or furniture at the venue;
  - (c) cleaning costs, including costs of a professional cleaner where the venue or any part of it has been left in an unclean condition;
  - (d) the removal, disposal or storage of any property left at the venue; and
  - (e) costs and expenses incurred as a result of a breach of these conditions of hire.
- 11.5. Where the amount of the security bond is not sufficient to cover the sums payable pursuant to these conditions of hire, the hirer will be liable to pay the difference within the time specified on the invoice.

## **12. CATERING AND BEVERAGES**

- 12.1. The hirer acknowledges and agrees that minimum catering requirements apply and that catering will not be provided if these are not met.
- 12.2. Council will provide the catering and beverages as specified in the Event Order Confirmation, or as otherwise agreed by the parties in writing.

- 12.3. External catering and beverages (including alcohol) must not be brought into or consumed at the venue or otherwise provided at the event without Council's prior written consent.
- 12.4. The hirer must not take, or allow any other person to take, any food or drink items from the venue.
- 12.5. Alcohol served by Council will be served in accordance with Council's liquor licence and the *Liquor Control Reform Act 1998*. Council reserves the right to refuse to serve alcohol to any person at the venue and to require intoxicated or disorderly persons to leave the venue.
- 12.6. The hirer must not do or allow to be done, anything which breaches or may breach, Council's liquor licence.

### 13. TICKETING

- 13.1. Where the hirer's event is a ticketed event, the hirer:
- (a) is entirely responsible for the printing, sale and distribution of tickets, unless otherwise agreed in writing with Council;
  - (b) must not sell, distribute or allow the sale or distribution of tickets for the event until an Event Order Confirmation has been issued and the hirer has paid the deposit and security bond;
  - (c) must manage and resolve all ticketing issues, including but not limited to, refunds and seat allocations; and
  - (d) must, at least 7 days prior to the start of the booking period, advise Council in writing of the number of tickets sold.
- 13.2. Council may, in the Event Order Confirmation, advise the hirer of the tickets to be withheld from sale and reserved for Council.
- 13.3. Unless Council notifies the hirer otherwise, the hirer must provide Victorian Government Companion Card holders (or other state/territory equivalents) with an additional ticket in the same price reserve, at no charge.

### 14. ADVERTISING AND MERCHANDISE

- 14.1. All proposed event programs, advertising and merchandising must be submitted to Council for approval 30 days prior to the start of the booking period. The hirer must not publish, produce, display, sell or otherwise distribute any programs, advertising or merchandising prior to receiving Council's written approval.
- 14.2. The hirer must not use Council's or the Encore logo without Council's prior written approval.
- 14.3. The hirer acknowledges and agrees that it is responsible for all aspects of program and merchandise sales.
- 14.4. The hirer agrees to pass on to Council 10% of the gross takings from all program and merchandise sales and that such payment will be made within 7 days of the end of the event.

### 15. GENERAL

The hirer:

- 15.1. is responsible for all costs associated with any emergency services attending the venue as a result of any breach of these conditions of hire;
- 15.2. must allow Council staff, its contractors, persons authorised by Council and emergency services access to the event or venue at any time during the booking period;
- 15.3. must not exclude Council staff and contractors from the venue or members of the public from the venue's communal areas (e.g. the foyer) during the booking period;
- 15.4. is responsible for the conduct and behaviour of all of its employees, agents, contractors and event attendees, including in respect of compliance with these conditions of hire;
- 15.5. must follow all directions of emergency services;
- 15.6. must follow all reasonable directions of Council in relation to the event and or venue;
- 15.7. acknowledges and agrees that Council is solely responsible for determining staffing requirements in connection with the hirer's booking;
- 15.8. must not exceed the venue's capacity or the maximum number of event attendees, as advised by Council;
- 15.9. must not sublease or licence the venue or any part thereof;
- 15.10. must comply with all laws, rules and regulations applicable to the event and the venue; and
- 15.11. acknowledges and agrees that Council may change or amend these conditions of hire at any time, without prior notice.

## **16. ENGAGEMENT OF THIRD PARTIES**

- 16.1. The hirer must advise Council prior to engaging any third party in connection with their event.
- 16.2. All third parties engaged by the hirer must hold and maintain public liability insurance in a minimum sum of \$20 million per single event and a copy of the certificate of currency must be provided to Council on request.
- 16.3. Where Council requires the hirer or any third party engaged by the hirer to submit a Job Safety Analysis and/or Safe Working Method Statements, these must be submitted not less than 14 days before the start of the booking period.

## **17. SECURITY**

- 17.1. Where Council, acting in its entire discretion, determines that security is required for the hirer's event, or the hirer requests security for their event, Council will:
  - (a) advise the hirer of this requirement;
  - (b) engage the security on behalf of the hirer; and

(c) include the costs of the security in the finalised booking amount as specified in the Event Order Confirmation.

17.2. The hirer must notify Council of its request for security at its event not less than 30 days before the start of the booking period.

17.3. The hirer acknowledges and agrees that Council may notify Victoria Police of the hirer's event and/or register the hirer's event with Victoria Police's Partysafe program (or equivalent).

### 18. PHOTOGRAPHY

The hirer must not photograph, film or otherwise record the event, the venue or Council staff, or allow any other person to do so without obtaining Council's prior written consent, such consent not to be unreasonably withheld.

### 19. INTELLECTUAL PROPERTY

19.1. The hirer must not do or allow anything to be done, which infringes or may infringe another person's intellectual property rights.

19.2. Where the event includes works or materials in which intellectual property rights subsist, the hirer must, on Council's request, provide evidence that the hirer has the right to use the work or material.

### 20. INSURANCE

20.1. The hirer must hold and maintain public liability insurance in a minimum sum of \$20 million per single event and must provide a copy of its certificate of currency with its Event Enquiry Form and otherwise on Council's request.

20.2. The hirer acknowledges and agrees that Council will not be responsible for any loss or damage to any property or equipment belonging either to the hirer or event attendees. Insurance for non-Council property is entirely the responsibility of the hirer and/or event attendees.

### 21. LIABILITY

21.1. To the extent permitted by law, Council gives no warranty or assurance that the venue or any part of it is fit for any purpose or use.

21.2. The hirer uses the venue at its own risk.

21.3. To the extent permitted by law, Council is not liable to the hirer for any loss, damage, claim or expense ('loss') suffered, including, but not limited to, property loss or damage, personal injury and death, as a result of or in connection with the hirer's use of the venue, except to the extent that any such loss is caused or contributed to by the negligent act or omission of Council.

21.4. Council is not liable to the hirer for any indirect or consequential loss that the hirer may suffer, including, but not limited to, lost profits, lost revenue or lost opportunities, loss of goodwill or loss of reputation.

### 22. INDEMNITY

The hirer agrees to hold harmless, indemnify and keep indemnified Council, its Councillors, staff and contractors ('Council') against any action, claim, demand, cost (including legal costs) or other liability ('claim') made against or incurred by Council in respect of any accident, damage, injury or loss ('loss') arising from the



hirer's use of the venue (including any claim arising pursuant to clause 21.4) and the hirer's compliance or purported compliance with these conditions of hire, provided that the hirer will not be required to indemnify Council against any such claim to the extent that any loss is caused by the negligent act or omission of Council.

### **23. CANCELLATION**

- 23.1. The hirer may only cancel a booking in writing.
- 23.2. The hirer acknowledges and agrees that in the event of a cancellation, the deposit and security bond will not be refunded.
- 23.3. The hirer acknowledges and agrees that the following cancellation fees apply:
- (a) at least 30 days' notice of cancellation: 50% of the full booking amount as specified in the Event Order Confirmation.
  - (b) Less than 30 days' notice of cancellation of the booking: 100% of the full booking amount as specified in the Event Order Confirmation.
- 23.4. Notwithstanding any other provision of these conditions of hire, and regardless of whether an Event Order Confirmation has been issued, Council expressly reserves the right to cancel any booking at any time or to refuse to allow any hire of the venue in circumstances where the venue is required for Council use, including as an emergency centre, where the venue is unsuitable for use, or where Council reasonably considers the proposed use will be detrimental to Council or a third party. Council may, acting in its entire discretion, provide the hirer with a full or partial refund of monies paid.
- 23.5. Council reserves the right to cancel any booking in circumstances where the hirer has submitted false, inaccurate, insufficient or misleading information in its Event Enquiry Form or otherwise. Council may, acting in its entire discretion, provide the hirer with a full or partial refund of monies paid.

### **24. NO RELATIONSHIP**

Nothing in these conditions of hire or in the conduct of Council and the hirer will create a relationship of agency, partnership, employer and employee or joint venture between the hirer and Council.

### **25. BREACH**

- 25.1. Any breach of these conditions of hire, including failure to provide the required information or documents or pay any amount due within the specified time may, at the option of Council, result in the cancellation of the hirer's booking, the security bond being withheld or further bookings by the hirer not being accepted.
- 25.2. The hirer agrees that if its booking is cancelled under clause 25.1, the hirer will pay all outstanding hire amounts and will not be entitled to a refund of any payments already made.