

Wyndham Cultural Centre

Conditions of Hire – Casual Hirers

These conditions of hire apply to the use of the Wyndham Cultural Centre, 177 Watton Street, Werribee 3030 ('the venue').

By submitting a booking enquiry, 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. your booking enquiry form, Technical and Ticketing Specifications Form, event order confirmation and current venue hire fees.

Submission of a booking enquiry does not confirm a booking. Bookings will only be confirmed once the hirer has submitted a Technical and Ticketing Specifications Form, Council has issued the hirer with an event order confirmation and the deposit has been paid.

1. BOOKING ENQUIRIES

Booking enquiries will be assessed in accordance with Council's Wyndham Cultural Centre Venue Hire Framework and applicants will be notified of the outcome of their booking enquiry in accordance with these conditions of hire.

2. HIRER

- 2.1. Where the hirer is a group, company or organisation, the person submitting the booking enquiry 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.
- 2.2. Where the hirer has indicated that they are a not-for-profit organisation or incorporated association or are otherwise eligible for discounted hire fees, they must provide evidence of this status with their booking enquiry. Council will assess applications for discounts in accordance with its Wyndham Cultural Centre Discount Guidelines.

3. USE OF THE VENUE

- 3.1. 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.
- 3.2. 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.

4. USE OF EQUIPMENT

- 4.1. The hirer must provide all additional equipment for its event beyond that which Council agrees to provide in accordance with the hirer's Technical and Ticketing Specifications Form. The hirer must obtain Council's prior written consent to use any additional equipment, such consent to not be unreasonably withheld.

- 4.2. 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.
- 4.3. 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.
- 4.4. The hirer acknowledges and agrees that the venue's counterweight lines (fly lines) must be operated by Council staff only.

5. TECHNICAL AND TICKETING SPECIFICATIONS

- 5.1. Following receipt of a booking enquiry Council will provide the hirer with a Technical and Ticketing Specifications Form. Unless otherwise agreed between Council and the hirer in writing, the hirer must complete and submit their Technical and Ticketing Specifications Form before the hirer's booking can be confirmed.
- 5.2. The hirer acknowledges and agrees that failure to complete and submit a Technical and Ticketing Specifications Form within the specified time may result in the hirer's booking not being accepted or being cancelled in accordance with clause 25.5.
- 5.3. The hirer acknowledges and agrees that Council will determine the minimum technical, front of house and other staffing required for the safe and proper operation of the venue during the booking period.
- 5.4. The hirer acknowledges and agrees that any staffing required under clause 5.3 will be provided by Council staff (or persons engaged by Council) at the hirer's cost, and that the cost of such staffing will be included in the finalised booking amount as specified in the event order confirmation.
- 5.5. The hirer acknowledges and agrees that Council will determine the break times, minimum shift hours and any additional staff hours before and after a booking.

6. HAZARDOUS OR HIGH-RISK ITEMS

- 6.1. The hirer acknowledges and agrees that the use of hazardous or high-risk items at the venue is subject to Council's written approval.
- 6.2. If the hirer indicates in its Technical and Ticketing Specifications Form that the event will contain any hazardous or high-risk items, Council will require the hirer to complete and submit a Notification of Hazardous Event Conditions Form at least 6 weeks prior to the booking period.

- 6.3. The hirer acknowledges and agrees that Council may require the hirer to complete and submit a Safe Work Method Statements (SWMS), Job Safety Analysis (JSA), Material Safety Data Sheets (MSDS), or any other documentation, qualifications or licences that may be reasonably required in connection with the use of any hazardous or high-risk items.
- 6.4. The hirer acknowledges and agrees that if any of the documentation required by clause 6.2 or 6.3 is not completed and returned to Council within the time specified, or if Council does not approve the use of the items in writing, the hirer must not use the hazardous or high-risk items in connection with the booking.

7. PROHIBITED ITEMS

- 7.1. The hirer must not use single use plastics (including balloons) or glitter at the venue.
- 7.2. The hirer must not display any signs or notices at the venue or affix any thing by any means to the venue's walls or any surfaces at the venue without Council's prior consent.

8. ACCESS AND ADMISSION

The hirer:

- (a) must ensure that all performers, musicians, technical and backstage crew and other associated persons enter and exit the venue via the stage door only;
- (b) acknowledges and agrees that a maximum of 150 people (including Council staff) are allowed backstage at any time; and
- (c) agrees that Council may refuse to admit latecomers to the venue until a suitable break in the event, if any.

9. SAFETY

- 9.1. If required by Council, the hirer must complete and submit a Risk Assessment in respect of their use of the venue.
- 9.2. All persons involved in the hirer's production, including cast, technical and backstage crew must undergo a safety induction at the start of the booking period.
- 9.3. The hirer must supply their own first aid kit for backstage use.
- 9.4. If required by Council, the hirer must ensure that at least one of its backstage crew members holds a current Level 2 First Aid qualification.
- 9.5. The hirer must nominate one backstage crew member to be the Fire Warden, who will be required to assist Council in the event of an emergency evacuation during the booking period.
- 9.6. 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.

- 9.7. 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.
- 9.8. 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.

10. CHILD SAFETY

- 10.1. The hirer must, as soon as is reasonably possible in the circumstances, notify Council of any concerns or incidents relating to any person aged under 18 that occur at the venue during the booking period.
- 10.2. If there are any persons aged under 18 at the venue in connection with the hirer's booking, the hirer:
- (a) is responsible for the wellbeing of those children at all times during the booking period;
 - (b) must, in addition to its obligations under clause 18.10, comply with the *Child Wellbeing Act 2005*, the *Workers Screening Act 2020*, the Victorian Child Safe Standards and all other associated legislation; and
 - (c) must, on Council's request, provide evidence of its compliance with clause 10.2(b).

11. CONCLUSION OF EVENT

- 11.1. 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.
- 11.2. 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 in connection with the cleaning of the venue, repairing any damage caused to the venue or any fitting, fixture or furniture at the venue and/or the disposal of abandoned items.

- 11.3. Where the hirer's booking period involves multiple non-continuous periods, the hirer must vacate the venue in accordance with clause 11.2 between each period.

12. FEES AND PAYMENT

- 12.1. If the hirer's booking enquiry 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 the hirer with an event order confirmation.
- 12.2. The hirer must pay the deposit as specified in the invoice issued with the invoice issued by Council within the time specified. If the hirer does not pay the deposit within the time specified, their booking will not be confirmed.
- 12.3. 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.
- 12.4. Where tickets to the event are issued free of charge, the hirer acknowledges and agrees that, notwithstanding clause 12.3, the hirer must pay the full booking amount (less any deposit already paid) no later than 14 days prior to the start of the booking period.
- 12.5. Where the hirer has agreed to accept additional costs (e.g. additional equipment, extension of booking period, etc.), has not vacated the venue by the end of the booking period or has incurred additional charges under clause 11.2(e), Council will issue the hirer with an invoice for these additional costs which the hirer must pay within the time specified on the invoice.
- 12.6. Access to the venue prior to the start of the booking period is at Council's discretion and may incur additional charges.
- 12.7. 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.

13. BOOKING CONFIRMATION AND CHANGES TO EVENT DETAILS

- 13.1. Submission of a booking enquiry does not constitute confirmation of a booking. A booking is not confirmed until the hirer has submitted a Technical and Ticketing Specifications Form, Council has issued the hirer with an event order confirmation and the deposit has been paid.
- 13.2. The hirer must advise Council as soon as possible of any material changes to their booking and/or the event.
- 13.3. The hirer must advise any changes to their technical requirements as specified in their Technical and Ticketing Specifications Form at least 14 days prior to the booking period.

14. FOOD AND DRINK

- 14.1. Food and drink (including alcohol) must not be brought into the venue without Council's prior written consent.
- 14.2. The hirer acknowledges that Council may, acting in its entire discretion and at its own cost, operate the venue's bar during the booking period. The hirer further acknowledges and agrees that Council will retain all money generated from such bar sales.
- 14.3. 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
- 14.4. The hirer must not do or allow to be done, anything which breaches or may breach, Council's liquor licence.
- 14.5. Food trucks and mobile vendors must not operate at or near the venue unless authorised by Council and compliant with Wyndham City permit requirements.

15. TICKETING

- 15.1. The hirer acknowledges and agrees that Council is entirely responsible for managing all aspects of ticketing for the hirer's event.
- 15.2. The hirer acknowledges and agrees that Council:
 - (a) will make tickets available for purchase from the box office during its normal business hours and online;
 - (b) will retain the booking fee charges in connection with ticket sales;
 - (c) may, acting in its entire discretion, give refunds for tickets sold.
- 15.3. The amount generated from ticket sales (excluding the charges referred to in clause 15.2(b)) will be paid to the hirer within 30 days of the end of the booking period.
- 15.4. Council makes no representation as to the number of ticket sales the hirer may enjoy in connection with their booking.
- 15.5. The hirer acknowledges and agrees that Council may hold up to six (6) house seats per performance, which are retained by Council at its entire discretion for operational, accessibility and guest management purposes.
 - (a) remain the property of Council and are not included in determining the number of seats available for sale or otherwise available to the hirer;

- (b) may be released by Council for sale up to 24 hours prior to the relevant performance, at Council's discretion; and
- (c) are separate from, and in addition to, any seats the hirer requests to be held for its own use, which must be notified to Council in the hirer's Ticketing Form.

16. EVENT PROMOTION

16.1. The hirer acknowledges and agrees that Council may promote the hirer's event on the venue's website, using the information provided in the hirer's booking enquiry and Technical and Ticketing Specifications Form. Council accepts no responsibility for any incorrect information that published in connection with the hirer's event.

16.2. Where the hirer provides photographs, pictures and/or logos ('images') to Council, the hirer:

- (a) grants Council a perpetual, irrevocable, transferable, sublicensable and royalty-free licence to use and publish the images (in whole or in part) for the purpose of promoting the event on the venue's website;
- (b) warrants that, where a person is capable of being identified in the images, the hirer has the consent of that person (or the consent of their parent/guardian where they are aged under 18) to provide the images to Council to promote the event; and
- (c) acknowledges and agrees that Council reserves the right not to use the images to promote the event.

17. ADVERTISING AND MERCHANDISE

17.1. All final copies of proposed programs, advertising and merchandising must be submitted to Council for approval 14 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.

17.2. The hirer acknowledges and agrees that it is responsible for all aspects of program and merchandise sales.

17.3. Unless otherwise agreed between Council and the hirer in writing, 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 30 days of the end of the event.

18. GENERAL

The hirer:

- 18.1. is responsible for all costs associated with any emergency services attending the venue as a result of any breach of these conditions of hire;
- 18.2. 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;

- 18.3. 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;
- 18.4. 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;
- 18.5. must follow all directions of emergency services;
- 18.6. must follow all reasonable directions of Council in relation to the event and or venue;
- 18.7. must not exceed the venue's capacity, as advised by Council;
- 18.8. must not sublease or licence the venue or any part thereof;
- 18.9. must obtain Council's prior written consent before engaging any third party in connection with the event, and must provide Council with the contact details of any third parties engaged;
- 18.10. must comply with all laws, rules and regulations applicable to the event and the venue; and
- 18.11. acknowledges and agrees that Council may change or amend these conditions of hire at any time, without prior notice.

19. SECURITY

- 19.1. Where Council determines that security is required for the hirer's event, or if the hirer requests security for its event, Council will:
 - (a) engage the security on behalf of the hirer; and
 - (b) include the costs of the security in the finalised booking amount as specified in the event order confirmation.
- 19.2. The hirer must notify Council of its request for security not less than 30 days before the start of the booking period.
- 19.3. 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 Party Safe Program (or equivalent).

20. PHOTOGRAPHY

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

21. INTELLECTUAL PROPERTY

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

- 21.2. 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.

22. INSURANCE

- 22.1. 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 booking enquiry and otherwise on Council's request.
- 22.2. If the hirer engages third parties in connection with their event, the hirer must submit a copy of the third party's certificate of currency for public liability insurance not less than 7 days before the event.
- 22.3. 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.

23. LIABILITY

- 23.1. 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.
- 23.2. The hirer uses the venue at its own risk.
- 23.3. 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.
- 23.4. 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.

24. 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 23.4) 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.

25. CANCELLATION

- 25.1. The hirer may only cancel or request an amendment to a booking in writing.
- 25.2. The hirer acknowledges and agrees that in the event of a booking cancellation, the deposit s will not be refunded.
- 25.3. The hirer acknowledges and agrees that booking cancellation fees apply:

- (a) At least 90 days' notice of cancellation: no cancellation fee.
- (b) Between 30 and 90 days' notice of cancellation: 50% of the full booking amount.
- (c) Less than 30 days' notice of cancellation: 100% of the full booking amount.

25.4. 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.

25.5. Council reserves the right to cancel any booking in circumstances where the hirer has not submitted a Technical and Ticketing Specifications Form within the stipulated time, or has submitted false, inaccurate, insufficient or misleading information in its Technical and Ticketing Specifications Form, booking enquiry or otherwise. Council may, acting in its entire discretion, provide the hirer with a full or partial refund of monies paid.

26. 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.

27. BREACH

27.1. Any breach of these conditions of hire, including failure to submit a Technical and Ticketing Specifications Form and/or pay any amount due within the stipulated time may, at the option of Council, result in the cancellation of the hirer's booking, the deposit being withheld or further bookings by the hirer not being accepted.

27.2. The hirer agrees that if its booking is cancelled under clause 27.1, the hirer will pay all outstanding hire amounts and will not be entitled to a refund of any payments already made.