



2 Hutcheson St,  
Blenheim 7201  
New Zealand



## General Terms and Conditions of Hire

By signing this document, the Hirer accepts and agrees that these General Terms & Conditions of Hire will apply to the Hirer's hire of the Venue.

Hirer: «Organisation\_Name»

Dated: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Signed on behalf of the Hirer (authorised officer):

\_\_\_\_\_

Print Name:

\_\_\_\_\_

Position Held:

\_\_\_\_\_

For Any Venue owned, managed or operated by the Marlborough Civic Theatre Trust.

Dated: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Signed on behalf of the Venue (authorised officer):

\_\_\_\_\_

Andrew Scott  
General Manager



P.O. Box 163, Blenheim 7240, New Zealand  
Tel. +64 (0)3 5208558 - Web. [www.mctt.co.nz](http://www.mctt.co.nz) - Email. [venuehire@mctt.co.nz](mailto:venuehire@mctt.co.nz)



# General Terms and Conditions of Hire

Version Date: 25 August 2015

Nothing in these General Terms and Conditions of Hire is intended to limit or modify any rights that the Hirer may have under the Consumer Guarantees Act 1993.

## 1. DEFINITIONS/INTERPRETATION

1.1 Unless the context otherwise requires:

**“Agreement”** means the Venue Hire Agreement, these Terms and Conditions and any Schedules;

**“Areas”** means those areas within the Venue or any area surrounding or adjacent to the Venue to be hired or used by the Hirer either exclusively or in common with others, as detailed in the Venue Site Plan;

**“Bond”** means the bond payment (if any) detailed in the Venue Hire Agreement required by the Venue Operator under clause 6 of these Terms and Conditions;

**“Caterer”** means a supplier of food and non-alcoholic beverages and associated catering services who has been appointed by the Venue Operator to provide catering services at the Venue Operator’s venue/s from time to time.

**“Confirmation Fee”** means the initial non-refundable payment to be made by the Hirer on account of the Venue Hire Fee as set out in the Venue Hire Agreement, which is payable to confirm the booking as described in Clause 3.1;

**“Estimated Services Fee”** means the fee for Services to be provided estimated in the Services Schedule or otherwise by the Venue Operator, pending determination of the actual Services Fee following completion of the Event;

**“Event”** means the event for which the Venue is hired as described in the Venue Hire Agreement;

**“Guarantor”** means the person or persons specified as Guarantor in the Venue Hire Agreement, guaranteeing the obligations of the Hirer;

**“Hire Period”** means that period during which the Hirer will hire the Venue as specified in the Venue Hire Agreement from the Commencement Date to the End Date;

**“Hirer”** means the person named as Hirer in the Venue Hire Agreement and also referred to as “you” in these Terms and Conditions;

**“Other Charges”** means the charges payable to the Venue Operator by the Hirer in addition to the Venue Hire Fee and Services Fee;

**“Payment Schedule”** means the schedule (if any) detailing payment arrangements attached to the Venue Hire Agreement;

**“Services”** may include catering (food and beverage), technical, security, supply of equipment, parking, ticketing and other services (if any) to be provided by the Venue Operator as detailed in the Venue Hire Agreement or as otherwise agreed between the parties;

**“Services Fee”** means the fee to be paid by the Hirer for the Services;

**“Services Schedule”** means the schedule of Services (if any) attached to the Venue Hire Agreement;

**“Terms and Conditions”** means these General Terms and Conditions of Hire;

**“Ticketing System”** means a system for selling tickets for an Event or otherwise offering entry to an Event, either to the general public or a selected group of persons;

**“Venue”** means the venue specified in the Specific Terms and includes the Areas;

**“Venue Hire Fee”** means the fee to be paid by the Hirer to hire the Venue as detailed in the Venue Hire Agreement;

**“Venue Operator”** means the person or entity named as Venue Operator in the Venue Hire Agreement, and also referred to as ‘we’ and ‘us’ in these Terms and Conditions;

**“Venue Owner”** means the legal owner of the Venue.

**“Venue Site Plan”** means the plan of the Venue and Areas (if applicable) outlining the area of the Venue being hired and set out in the Venue Hire Agreement;

**“Working Day”** means any day other than a Saturday, Sunday or a public holiday applying in the city where the Venue is located.

1.2 **Interpretation:** In this Agreement, unless the context indicates otherwise:

**Persons:** references to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality; and

**Statutes and Regulations:** references to any statutory provision include any statutory provision which amends or replaces it, and any subordinate legislation made under it.

## 2. THE EVENT AND HIRE OF THE VENUE

- 2.1 **Event Description:** By signing the Venue Hire Agreement the Hirer warrants and agrees that the Event is accurately described therein and acknowledges that the Venue Operator has agreed to enter into the Agreement in reliance of the Hirer's description of the Event.
- 2.2 **Hire of Venue:** Subject to the Hirer complying with the Agreement, the Venue Operator agrees to allow the Hirer to use the Venue for the Event during the Hire Period in accordance with the terms of this Agreement.
- 2.3 **Performance Standard:** Without limiting clause 9.2, the Hirer warrants and agrees that the Venue will not be used for any performance or activity that is of an objectionable nature, is in breach of reasonable standards of public decency or is likely to create a nuisance. If there is any likelihood of objectionable content of any kind, in the Event, then the Hirer must disclose this to the Venue Operator prior to signing the Agreement or as soon as practicable after becoming aware of this and ensure that this is clear in all marketing and promotional material.

## 3. BOOKING CONFIRMATION AND POLICY

- 3.1 **Confirmation:** No booking for hire of the Venue is confirmed until both the Hirer and the Venue Operator have signed the Agreement and the Hirer has paid the Confirmation Fee in full. A booking may be vacated and/or offered to other prospective hirers by the Venue Operator until such time as it has been confirmed under this Clause 3.1.
- 3.2 **Confirmation Fee:** Subject to Clause 3.1, the Confirmation Fee is payable by the Hirer on account of the Venue Hire Fee by the Payment Date detailed in the Venue Hire Agreement or where no Payment Date is specified, then 10 Working Days following signing of the Agreement. The Confirmation Fee is non-refundable on the basis that this is a genuine pre-estimate of loss to the Venue Operator as it may not be possible to re-hire the Venue to another hirer at the same or any other price, and this is not intended to operate as a penalty.

## 4. VENUE HIRE FEE

- 4.1 **Venue Hire Only:** The Venue Hire Fee covers hire of the Venue only. Any Services provided by the Venue

Operator will be included in the Services Fee, to be paid in addition to the Venue Hire Fee.

- 4.2 **Payment:** The Hirer will pay the Venue Operator the Venue Hire Fee for the hire of the Venue. The Confirmation Fee is payable on account of the Venue Hire Fee as set out in Clause 3.2.
- 4.3 **Balance:** The balance of the Venue Hire Fee is to be paid by the Hirer in accordance with the Payment Schedule, or where there is no Payment Schedule or payment dates are not specified, the Hirer will pay the balance of the Venue Hire Fee 10 days before commencement of the Hire Period.
- 4.4 Failure to pay the Venue Hire Fee when due may result in cancellation of the Hirer's booking and/or default fees under clause 8.

## 5. SERVICES AND SERVICE FEE

- 5.1 **Services:** The Venue Operator will provide the Hirer with the Services in accordance with the provisions of this Agreement.
- 5.2 **Services Fee:** The Hirer will pay the Venue Operator the Services Fee for provision of the Services.
- 5.3 **Payment:** The Hirer will pay the Services Fee in accordance with the Payment Schedule. Where there is no Payment Schedule, then the Hirer will pay the Estimated Services Fee at least 7 days before the Commencement Date for the Hire Period. As soon as practicable after the End Date for the Hire Period, the Venue Operator will provide the Hirer with a tax invoice for the actual Services Fee. Where the amount of the Services Fee is greater than the Estimated Services Fee, the Hirer will pay the balance to the Venue Operator within 10 Working Days of date of invoice. Where the Services Fee is less than the Estimated Services Fee a refund of the difference will be paid as soon as practicable after the End Date of the Hire Period.

## 6. BOND

- 6.1 **Bond Payment:** The Venue Operator may require a Bond to be paid to ensure the due and proper performance by the Hirer of its obligations under this Agreement. This Bond is in addition to any other fees or charges payable under this Agreement. The Hirer agrees to pay the Venue Operator a Bond of an amount and on the date specified (if any) in the Venue Hire Agreement.
- 6.2 **Use of Bond Money:** The Bond will be held in trust by the Venue Operator and should the Hirer breach or fail to properly perform the Hirer's obligations under this Agreement, the Venue Operator may use

the Bond to carry out the Hirer's obligations and deduct from the Bond any money payable to the Venue Operator under the Venue Hire Agreement.

- 6.3 **Return of Bond Money:** Where the Hirer has properly complied with all its obligations under the Venue Hire Agreement and Clause 6.2 does not apply then within a reasonable time following the conclusion of the Event and the Hire Period, the Venue Operator will refund the Bond money to the Hirer.

## 7. OTHER CHARGES

- 7.1 **Additional Charges:** In addition to the Venue Hire Fee and the Services Fee, the Hirer will be charged and agrees to pay for any:

- (a) Damage to the Venue or removal of any of the Venue Operator's property from the Venue during the Hire Period caused by the Hirer or arising from the Hirer's lack of care or any other breach of this Agreement. The Hirer may inspect the Venue with the Venue Operator before the commencement of the Hire Period to take note of any existing damage;
- (b) Extra cleaning, rubbish removal, repair or reinstatement of the Venue that the Venue Operator reasonably considers is required after the Event;
- (c) Services provided by the Venue Operator in addition to the Services that the Hirer requires or uses or which the Venue Operator considers necessary for the safe and efficient conducting of the Event;
- (d) Hour or part thereof that it continues to occupy the Venue after the End Date of the Hire Period; and
- (e) Costs, expenses, or losses however incurred by the Venue Operator as a result of a breach or non-observance of these Terms and Conditions by the Hirer, which for the purposes of this Clause 7.1 includes its directors, officers, employees, contractors, agents, invitees, or ticket holders.

- 7.2 **Change:** If the Hirer wishes to add or amend any details set out in the Venue Hire Agreement within the 5 Working Days before the commencement of the Hire Period, in addition to any other rights the Venue Operator may have under this Agreement the Hirer may be charged an additional amount to cover the Venue Operator's administrative costs in making any agreed change. The Venue Operator will advise the Hirer of the administrative costs and any other charges and costs that will apply as a result of the changes the Hirer has requested before they are incurred. All requested changes are subject to availability and at the Venue Operator's sole

discretion and provided that the Hirer has agreed to pay the administrative and other costs payable under this Clause. The Hirer acknowledges that change requests may not be possible and/or may not be agreed to by the Venue Operator.

- 7.3 **Merchandise Service Fee:** If the Hirer wishes to sell any Event merchandise at the Venue the Hirer must first obtain the Venue Operator's approval. A merchandise service fee of an amount detailed in the Venue Hire Agreement must also be paid to the Venue Operator, plus any associated costs of services provided by the Venue Operator in relation to sale of merchandise. The Hirer must provide the Venue Operator with certified evidence of the gross sales of Event merchandise for the Hire Period, in order to enable the Venue Operator to assess the actual amount of the merchandise service fee.

## 8. PAYMENTS DUE BEFORE SET UP TIME, AND OVERDUE OR UNPAID AMOUNTS

- 8.1 **Payment by Set Up Time and Due Dates:** The Hirer must make all payments as set out in the Payment Schedule and pay all invoices on the dates indicated, time being of the essence. Despite anything else in this Agreement, the Venue Hire Fee and all Estimated Service Fees must be paid no later than the Set Up Time. The Hirer will not be permitted to access the Venue until such time as the Venue Operator has received these payments. If the Hirer fails to make any payment when due the Venue Operator may, in addition to and without limiting any other rights it has under this Agreement or at law, immediately cancel the Hirer's booking and this Agreement by notice in writing to the Hirer. In such a case Clause 17.1 will apply as if the Hirer had cancelled this Agreement.
- 8.2 **Default Interest:** The Venue Operator may charge interest for late payment on all amounts due under this Agreement, calculated daily at the rate specified in the Venue Hire Agreement, from the due date until the date that the Venue Operator receives payment in full of those amounts.
- 8.3 **Recovery Costs:** The Venue Operator may recover from the Hirer all costs and expenses (including debt collection fees and legal fees) the Venue Operator incurs in trying to recover any overdue amount from the Hirer under this Agreement, including administrative costs of either 15% of the overdue amount or \$300.00 whichever is less, on the basis that this is a genuine pre-estimate of cost to the Venue Operator and this is not intended to operate as a penalty.

## 9. USE AND CARE OF THE VENUE

- 9.1 **Restrictive Use:** The Hirer may only use the Venue to stage the Event as described in the Venue Hire Agreement or as amended and approved by the Venue Operator in writing.
- 9.2 **Proper Conduct:** During the Hire Period the Hirer shall conduct and manage its use of the Venue in an orderly and lawful manner, and shall remain responsible for the conduct of its employees, contractors, agents, invitees and ticket holders and shall ensure that none of them behave in any riotous, offensive or disorderly manner (including drunken behaviour) or in such a manner that is likely to cause danger or annoyance to other members of the public, the Venue Operator or damage the reputation of the Venue or the Venue Operator. The Hirer acknowledges that the Venue Operator may reject or refuse admission to any person who fails to behave in accordance with the standards required by this clause, in which case the Hirer indemnifies the Venue Operator to the fullest extent permitted by law for any claims that may be made against the Venue Operator as a result of such action.
- 9.3 **Licenses, Permits, Consents and Authority:** The Hirer must at the Hirer's expense obtain all licenses, permits and consents that may be required for the Event and before the Event and upon any further reasonable request the Hirer will provide the Venue Operator with copies of these documents. In addition, the Hirer will obtain the relevant authorisation in relation to use of any third party intellectual property and will not use the Venue for the public performance of any literary, dramatic, musical or other work or entertainment in breach of copyright.
- 9.4 **Compliance with Laws and Venue Operator's Directions:** During the Hire Period, the Hirer shall ensure that its directors, officers, employees, contractors, agents, invitees, and ticket holders comply with all applicable statutes, bylaws and terms of entry and/or rules of conduct for the Venue and any directions of the Venue Operator and that they do not do or omit to do anything that may cause the Hirer to be in breach of the Hirer's obligations under this Agreement. The Hirer shall also take all steps reasonably required of the Hirer to comply with the requirements of and preserve the continuity of all licenses held in relation to the Venue.
- 9.5 **Reasonable Care Required:** During the Hire Period, the Hirer shall ensure that all reasonable care is taken in the use and occupation of the Venue so that, with the exception of fair wear and tear, the Venue will be left in the same condition upon completion of the Hire Period, as it was at the commencement of the Hire Period. In this regard the Hirer shall not without limitation permanently mark, paint, drill or

otherwise deface any part of the Venue or make any alteration to the structure, fittings decorations or furnishings of the Venue (in particular, where there is a sports floor that requires special care), without the prior written consent of the Venue Operator.

- 9.6 **Prohibited Goods/Activities:** During the Hire Period the Hirer must ensure that:

- (a) Neither the Hirer nor any of its directors, officers, employees, contractors, agents, or ticket holders may bring to the Venue any firearms, explosives, flammable liquids or other dangerous substances (including fireworks or pyrotechnics) which may cause damage or injury to property or persons, except with the prior written consent of the Venue Operator and then only in accordance with the conditions of that consent, which for the avoidance of doubt may be withheld at the Venue Operator's sole discretion. Notwithstanding any such consent, the Hirer will indemnify the Venue Operator to the fullest extent permitted by law in respect of any liability or expense it incurs as a result of any damage, loss, or injury;
- (b) Gaming: No lottery, raffle, betting, gambling or game of chance of any kind may be conducted in the Venue without the prior written consent of the Venue Operator and then only in accordance with applicable laws;
- (c) Broadcasting and Recording: No radio, television, or online broadcast, filming, recording, streaming or taping, or any type of electronic or digital transmission or recording of any kind whatsoever may be made at, or for, the Event at the Venue, without the prior written consent of the Venue Operator.

- 9.7 **No Smoking:** The Venue is a strictly 'no smoking' Venue and the Hirer must strictly adhere to and enforce this policy and the requirements of the Smoke Free Environments Amendment Act 2003 and amendments at all times. For the avoidance of doubt 'No Smoking' means that any form of smoking on stage as part of a performance is not permitted. Where designated outdoor smoking areas are required for an Event, the Hirer must specifically discuss this requirement with the Venue Operator.

- 9.8 **Electrical Use and Installation:** The Hirer will:

- (a) Not permit any electrical devices into the Venue unless evidence is first provided to the Venue Operator in writing that such device has been inspected by a suitably qualified

electrician or trained person and complies with New Zealand law and any applicable regulations or standards. Further the Hirer shall not connect any electrical installation or equipment or fitting to the electricity supply of the Venue without obtaining the prior approval of the Venue Operator in writing to such connection or installation and provided always that such installation or connection as approved by the Venue Operator is carried out by a suitably qualified and certificated person as required by New Zealand law;

- (b) Be liable for any costs or damages that arise out of the use of electrical devices or any electrical installation or connection that has not been approved and inspected in accordance with this Agreement, and to the fullest extent permitted by law the Hirer will indemnify both the Venue Operator and the Venue Owner in respect of any liability or expense either incurs as a result of the Hirer failing to comply with this clause 9.8.

9.9 **Temporary Structures:** The Hirer shall not construct or erect any rigging, scaffolding or other temporary structure or suspend any object or thing from the ceiling of the Venue without obtaining the prior written approval of the Venue Operator, which for the avoidance of doubt may be withheld at the Venue Operator's sole discretion. It shall be a condition of any such approval that such work be carried out by a suitably competent or qualified person to the satisfaction of the Venue Operator.

9.10 **Repairs and Reinstatement:** Upon completion of the Hire Period the Hirer shall leave the Venue in the same condition as it was at the commencement of the Hire Period and otherwise in a clean and tidy condition. The cost of any repairs and additional cleaning required by the Venue Operator to reinstate the Venue to such clean and tidy condition will be charged to the Hirer in addition to the Venue Hire Fee and any Other Charges.

## 10. VENUE SETUP

10.1 **Set up Requirements:** Unless agreed otherwise in the Venue Hire Agreement, the parties must, at least 10 Working Days before the commencement of the Hire Period have agreed in writing the Venue set up requirements and responsibilities for the Event, based on the following information:

- (a) Venue layout;
- (b) Event programme/timetable including all breaks/meals requirements;

- (c) Equipment and Technical requirements;
- (d) Equipment being brought to the Venue;
- (e) Food and beverage requirements;
- (f) The Hirer's health and safety plan for the Event if required under Clause 16.1; and
- (g) All requirements as to the Services to be provided by the Venue Operator.

10.2 **Advance Deliveries:** The Hirer must agree in advance with the Venue Operator, in relation to any delivery to the Venue of equipment or supplies for the Event before the Hire Period. Such advance deliveries must be clearly marked for the Event and may only be received at the Venue after prior negotiation and agreement between the Venue Operator and the Hirer, before the Hire Period and subject to suitable storage being available at the Venue.

10.3 **Receipt of Advance Deliveries:** Any advance deliveries to the Venue are entirely at the risk of the Hirer and will only be received by the Venue Operator on the basis that to the fullest extent permitted by law the Venue Owner and the Venue Operator have no liability for loss or damage to any equipment or supplies, before, during or after the Event. To facilitate advance deliveries to the Venue, the Venue Operator may sign delivery receipt documentation on behalf of the Hirer, provided always that the Venue Operator accepts no liability in relation to the deliveries and the Hirer will fully indemnify the Venue Operator and the Venue Owner in this regard.

10.4 **Removal/Storage:** Unless it is agreed in writing in advance that pack down services will be provided by the Venue Operator, all equipment and supplies relating to the Event must be removed at the end of the Hire Period. Anything left in the Venue after the end of Hire Period may be stored by the Venue Operator at the Hirer's expense and if not removed within 7 days of the end of the Hire Period, the Venue Operator may dispose of the same as it sees fit without any resulting liability to the Hirer or any person claiming through the Hirer.

## 11. SERVICES

11.1 **Services Offered:** In addition to providing the Venue the Venue Operator is able to provide other Services, on the terms to be agreed between the parties.

11.2 **Services Schedule:** Any Services to be provided should where possible prior to the commencement of the Hire Period be recorded in the Services Schedule. The Services Schedule will set out the Services required by the Hirer in relation to the Event, the scope of those Services and the Estimated Services Fee and will be signed by both parties as acceptance of the Services.



- 11.3 **Additional Services:** Any Services requested by the Hirer (including any agent, employee or contractor of the Hirer) and provided by the Venue Operator and not detailed in the Services Schedule shall be paid for by the Hirer (whether or not such request was verbal or in writing).

## 12. TICKETING

Where the Event is marketed to the public with tickets publicly available and the Hirer uses a Ticketing System:

- 12.1 **Ticketing Agent:** Unless otherwise agreed by the Hirer or the Venue Operator, all tickets must be printed and sold through a Venue Operator's nominated ticketing agent, at the Hirer's cost.
- 12.2 **Ticket sales:** Tickets to the Event will not go on sale until the Venue Operator has received the Agreement signed by the Hirer together with the Confirmation Fee and Bond (if any).
- 12.3 **Refund Policy:** The Hirer must have a clear, legally compliant refund policy where an Event is cancelled and this policy must be clearly communicated to both the Venue Operator and prospective purchasers of tickets for the Event.
- 12.4 **Ticketing Agent Authorisation:** Unless otherwise agreed in writing, by signing this Agreement the Hirer authorises the ticketing agent to deduct from proceeds of ticket sales for the Event and pay directly to the Venue Operator, any amounts payable by the Hirer to the Venue Operator under this Agreement. Any amounts payable by the Hirer not covered by proceeds of ticket sales will be paid by the Hirer in accordance with this Agreement.

## 13. CATERING (FOOD AND BEVERAGE)

- 13.1 **No Food or Beverage:** Except where expressly provided otherwise in the Venue Hire Agreement, the Hirer must not, and must not permit any other person to, bring any food or beverages into the Venue and/or remove any food or beverages from the Venue except where specific and prior arrangements have been made in writing with the Venue Operator. For the avoidance of doubt the Hirer may not arrange for third-party food or beverage vendors of any kind to service the Event, whether at, on, near, or adjacent to the Venue. For the purposes of this Clause 13.1 "Hirer" includes the

Hirer's directors, officers, employees, contractors, agents, invitees, or ticket holders.

- 13.2 **Caterers:** If the Hirer wishes to serve any food or non-alcoholic beverages at the Event then the Hirer must select a Caterer to do so. The Venue Hire Operator will provide the Hirer with details of the Caterers and their respective offerings for this purpose, including price lists, and Hirer's selection must be recorded in the Venue Hire Agreement. The Service Fees payable on account of the catering services will be made by the Hirer directly to the Venue Operator strictly in accordance with the Venue Hire Agreement. The Venue Operator discloses that it will deduct a commission from the Services Fees payable by the Hirer on account of catering before paying the proceeds to the Caterer.
- 13.4 **Special Dietary Needs:** The Hirer must as soon as possible, but in any case at least 10 days before the Event, notify the Venue Operator of any specific dietary requirements (including any allergies) for specific guests attending an Event. Where possible all reasonable and notified dietary requirements will be accommodated but the Hirer acknowledges that such a request may incur further Service Fees, which will be payable by the Hirer before the request may be confirmed by the Venue Operator.
- 13.5 **Numbers:** The Hirer may increase or decrease estimated catering numbers by up to 10% until 10 Working Days before the Event. After this time catering numbers become final numbers and will determine the minimum catering charge payable by the Hirer should actual number be lower than final numbers advised.
- 13.6 **Alcohol:** The Venue Operator has the exclusive right to sell, supply, and serve alcohol at the Venue and if the Hirer wishes to have any alcohol available at the Event, then the Hirer must advise the Venue Operator and the parties must agree the relevant details in the Venue Hire Agreement. BYO arrangements of any kind will not be permitted. Where any alcohol is to be offered at an Event, food must also be served in accordance with this Clause 13. The Hirer must comply with all conditions and requirements of the Venue Operator's liquor licence and meet the cost of the Venue Operator obtaining or attempting to obtain any additional licences that may be required for the Event. The Hirer acknowledges that the Venue Operator may be unable to secure additional licences for the Event and this will not give rise to any claim or right of compensation for the Hirer. The Venue Operator will

have the right to control the supply and service of alcohol at the Event, may refuse service to any person/s in its sole discretion, and may cease alcohol supply and service at the Event if it considers this desirable or necessary in terms of the law or its alcohol service policies and this will not give rise to any claim or right of compensation for the Hirer.

#### 14. STAFF/PERSONNEL

The Venue Operator may upon request from the Hirer, and subject to availability, provide its staff to assist with the running of the Event, including front of house staff, fire safety officers, security personnel, technicians and cleaners as agreed. Where the cost of all such staff is not included in the Venue Hire Fee or Services Fee, then such cost will be an additional charge paid by the Hirer and based on the Venue's applicable rates.

#### 15. PROMOTION AND ADVERTISING

15.1 **Promotion:** The Hirer will be responsible for all aspects of promotion of the Event, unless agreed otherwise.

15.2 **Approval:** Unless agreed otherwise between the parties, the Hirer will provide the Venue Operator with the opportunity to approve all advertising for an Event prior to publication, particularly in relation to sponsor acknowledgement, use of the Venue name and logo and contact details and the overall look and feel.

15.3 **Sponsors:** The Venue Operator may have arrangements with sponsors, including but not limited to naming rights sponsors for the Venue and/or parts of the Venue ("Venue Sponsors"). The Venue Operator will inform the Hirer of any Venue Sponsors and any restrictions that may apply during the Hire Period in relation to the Venue as a result of such sponsorship arrangements. The Hirer will prior to the Event, advise the Venue Operator of any sponsors or proposed sponsors for the Event ("Event Sponsors") and obtain the consent of the Venue Operator to such Event Sponsors. The Hirer will not do anything to put the Venue Operator in breach of its obligations to Venue Sponsors.

#### 16. HEALTH AND SAFETY

16.1 **Compliance:** The Hirer will comply at all times with the Venue's health and safety policies and procedures as advised to the Hirer from time to time and the requirements of the Health and Safety at Work Act 2015 (and any amendments).

16.2 **Notification:** The Hirer must immediately notify the Venue of any risks to health and safety arising from Event and shall advise of any risks to health and safety in the workplace which may affect the safety of any persons within the Areas.

16.3 **Elimination:** The Hirer agrees to take all reasonably practicable steps to ensure risks to health and safety are eliminated, if the risk cannot be eliminated then minimised, and it shall have due regard to any risks that may arise in performing its obligations under this Agreement.

16.4 The Hirer must:

(a) upon the request at any time of the Venue, submit to, and fully co-operate with, any safety process reasonably required by the Venue and provide all documentation relating to the Hirer's own safety policies and procedures.

(b) notify the Venue immediately in the event of any incident involving workers, agents and representatives of the Hirer or the Venue occurring in the performance of this Agreement where that incident causes any personal injury or damage to property which could reasonably be expected to give rise to personal injury;

(c) assess all reasonably foreseeable risks to health and safety that may affect the Venue or any third party arising out of or in any way connected with the performance of this Agreement, and provide a copy of such assessments to the Venue upon request, and promptly take all reasonably practicable steps to eliminate or minimise such risks the and must notify and co-operate with the Venue accordingly;

(d) fully co-operate with the Venue and any other parties as necessary to ensure that all reasonably foreseeable risks to health and safety are eliminated or minimised; and

(e) take all reasonably practicable steps to ensure that no act or omission is a breach of any duty or obligation of the Hirer under the Health and Safety at Work Act 2015 and associated regulations or any safety requirements as may reasonably be required by the Venue.

16.2 **Hirer Responsibility:** The Hirer will ensure that every employee, contractor, performer, agent or invitee of the Hirer working or otherwise at the Venue during the Hire Period acts in accordance with and at all times complies with:



- (a) The Venue's "house rules" and policies and procedures regarding health and safety, including but not limited to evacuation procedures, maximum number of persons at the Venue etc.;
- (b) Any applicable safety programme including without limitation the "Guide to Safe Working Practices in New Zealand Theatre and Entertainment Industry" which is available at [www.etnz.co.nz](http://www.etnz.co.nz);
- (c) The obligations and duties under the Health and Safety at Work Act; and
- (d) The Venue's "no smoking policy" and the Hirer's obligations under the Smoke Free Environments Amendment Act 2003.

16.3 **Venue Responsibility:** The Venue will comply with the requirements of the Health & Safety in Work Act 2015 and in particular will:

- (a) Maintain a fit-for-purpose health and safety management system;
- (b) Train the Venue's employees and contractors to do their job safely;
- (c) Provide safety equipment where appropriate;
- (d) Ensure that there is appropriate supervision of the Venue's employees and contractors to ensure compliance with health and safety requirements;
- (e) Develop procedures to be adopted in cases of emergency;
- (f) Regularly audit systems and practices against relevant Worksafe NZ Codes or guidelines of best practice;
- (g) Regularly monitor existing and potential hazards in the workplace and develop and implement appropriate control measures;
- (h) Implement regular reviews of health and safety management systems and procedures; and
- (i) Consult, co-operate and co-ordinate activities with the Hirer to the extent that the parties have overlapping duties in relation to health and safety, including but not limited in relation to ticket holders and invitees to the Venue.

16.4 **Notification:** The Hirer will immediately notify the Venue Operator of any hazards, or risks which the Hirer observes or becomes aware of at the Venue. The Hirer must also immediately notify the Venue Operator of any incident, "near miss", or accident it becomes aware of at the Venue (including any involving any equipment or any of the Venue Operator's employees) and the Hirer will provide the Venue Operator with such assistance as may be necessary to conduct any incident or accident investigation.

## 17. CANCELLATION

17.1 **Cancellation by Hirer:** If the Hirer cancels the Event, the Venue Operator will retain the non-refundable Confirmation Fee and unless specified in writing, otherwise, the following cancellation provisions will apply. Where cancellation occurs within:

- (a) 3 months of the Event, 50% of the Venue Hire Fee is payable to the Venue Operator; and
- (b) 10 Working Days of the Event, the full Venue Hire Fee is payable; and
- (c) 7 days of the Event, the full Venue Hire Fee is payable, together with any Services Fee, and 50% of the estimated cost of catering on numbers advised; and
- (d) 3 days of the Event, 100% of the full Venue Hire Fee is payable, together with 100% of the Estimated Service Fees.

This clause 17.1 is not intended to operate as a penalty and instead contains a genuine pre-estimate of loss to the Venue Operator, as it may not be possible to re-hire the Venue to another hirer at the same or any other price, and costs will have been incurred by the Venue Operator and third parties such as but not limited to Caterers.

17.2 **Cancellation by Venue Operator:** Without limiting Clause 20, the Venue Operator may cancel the Hirer's booking and this Agreement immediately by notice in writing to the Hirer if-

- (a) The Venue Operator reasonably considers that the staging of the Event or the nature of the Event will, or might contravene any statute, order, regulation, rule of law or any other requirement of a public or local authority or otherwise be in breach of reasonable standards of public decency. Where this contravention is not reasonably apparent from the description of the Event provided by the Hirer clause 17.1 will apply as if the cancellation had been made by the Hirer; or
- (b) It reasonably considers that the management and/or control of the Event by the Hirer is deficient or inadequate and/or the behaviour of the Event guests, invitees, and/or ticket holders of the Event is likely to be such that it would lead to danger or injury to any person or material damage to any property, including the Venue itself, and clause 17.1 will apply as if the cancellation had been made by the Hirer.

## 18. POSTPONEMENT OR REDUCTION IN HIRE PERIOD

If for any reason whatsoever the Hirer wishes to postpone the date on which the Event is to be held and/or wishes to alter or reduce the Hire Period, then unless agreed otherwise by the Venue Operator in writing the cancellation provisions set out in Clause 17.1 will apply as if the Hirer had cancelled the Event, except where the Event may still be held but with a reduced Hire Period, in which case the amounts payable under Clause 17.1 shall be adjusted to reflect the reduced Hire Period. The provisions of this Clause represent a genuine pre-estimate of loss to the Venue Operator, and this is not intended to operate as a penalty.

## 19. INSURANCE

19.1 **Public Liability Insurance:** The Hirer must maintain and keep in force during the Hire Period, adequate public liability insurance cover providing indemnity against loss, damage, costs and expenses for which the Hirer may become liable under this Agreement.

19.2 **Policy:** The public liability policy will be with a reputable insurer and on terms acceptable to the Venue Operator and shall have a minimum policy limit of \$10,000,000 (ten million dollars) for any one occurrence but be unlimited in aggregate unless agreed otherwise and specified in the Specific Terms. The Hirer will upon request provide the Venue Operator with proof of public liability cover and evidence that all premiums due are fully paid.

## 20. TERMINATION

20.1 **Termination by the Venue Operator:** The Venue operator may at any time terminate this Agreement by notice in writing to the Hirer with immediate effect, in any of the following circumstances:

- (a) The Hirer is in default in the observance or performance of any of its obligations under this Agreement and such default is not remedied within a reasonable time (as determined by the Venue Operator in its sole discretion taking into account the circumstances) from the date the Venue Operator has notified the default and requested the Hirer to remedy such default;
- (b) If the Hirer fails to pay any sum of money payable to the Venue Operator pursuant to this Agreement, on the due date for payment;
- (c) If any secured creditor of the Hirer goes into possession of any business or undertaking of the Hirer either by itself or by any agent or any receiver is appointed over any business or undertaking of the Hirer, if the Hirer (being a natural person) has an order of bankruptcy made against him or her, if an application for the liquidation of the Hirer (being a

company) is made or if a resolution is passed by the creditors or members of the Hirer (being a corporation) resolving or requiring that the Hirer be put into liquidation;

- (d) If the Hirer enters into any arrangement, composition or assignment under the Insolvency Act or becomes unable to pay debts as they fall due.

20.2 **Obligations on Termination:** Upon termination under clause 20 the Hirer will immediately remove all the Hirer's property, vacate the Venue and immediately deliver to the Venue Operator all property belonging to the Venue Operator. The Hirer will have no entitlement to claim compensation or damages from the Venue Operator on account of any inconvenience or loss to the Hirer as a result of termination under clause 20.

20.3 **Without Prejudice:** Such termination shall be without prejudice to the Venue Operator's right to recover the Venue Hire charges and other money payable by the Hirer under this Agreement and the rights of either party against the other in respect of an earlier breach of any of the provisions contained or implied in this Agreement.

## 21. GUARANTEE

In consideration of the Venue Operator hiring the Venue to the Hirer for the Event on the term of the Agreement, The Guarantor guarantees the due and punctual payment by the Hirer of all money owed under the Agreement together with the due and punctual performance by the Hirer of all its obligations under this Agreement.

## 22. LIABILITY AND INDEMNITY

22.1 **Indemnity:** Subject to Clause 34(a), to the fullest extent permitted by law the Hirer indemnifies the Venue Operator and the Venue Owner from and against all claims, damages, liabilities, costs, fines, levies, penalties, losses and expenses (including legal fees on a solicitor and client basis) however arising out of any breach of the Hirer's obligations under this Agreement or the termination of this Agreement because of the Hirer's default or negligence, and including without limitation any claim, loss or damage caused or contributed to by the Hirer or any of its directors, officers, employees, contractors, performers, invitees, ticket holders, or agents to the Venue or any property or facilities located or stored in the Venue, including the Areas.

22.2 **Hirer's Property:** Subject to Clause 34(a), the Hirer acknowledges and agrees that the Venue Operator and Venue Owner are not responsible for loss or damage to any of the Hirer's property in the Venue, except where that loss or damage is caused by the Venue Operator's negligence.

22.3 **Indirect/Consequential Loss:** Subject to Clause 34(a), the Venue Operator and the Venue Owner shall not be liable to the Hirer under contract or tort or otherwise, for any indirect or consequential loss arising under or in connection with this Agreement.

22.4 Despite anything else contained in this Agreement, but subject to Clause 34(a), the extent of the Venue Operator's and the Venue Owner's total aggregate liability to the Hirer under this Agreement for any loss, damage, claim, or expense (whether due to the Venue Operator's negligence or otherwise) is limited to the amount of the Venue Hire Fee.

### 23. NOTICES

23.1 **Form:** Any notice under this Agreement between the parties must be made in writing and may be personally delivered, posted, faxed or emailed to the addresses set out in the Venue Hire Agreement or to such other addresses as agreed in writing between the parties.

23.2 **Delivery:** Notices will be deemed to be given:

- (a) Where served personally, upon delivery;
- (b) Where served by ordinary post, five (5) Working Days after posting;
- (c) Where served by facsimile upon successful transmission of the facsimile as shown on the send report;
- (d) Where served by email, on the email leaving the information system of the sender provided that no error or delay message is received in relation to that email –

provided that any notice received after 5PM on a Working Day will be deemed to be received at 9AM on the next Working Day.

### 24. FORCE MAJEURE

In the event that the Venue Operator is unable to perform or discharge its obligations under this Agreement by reason of any fire, flood, earthquake or similar catastrophic event, outbreak of state of emergency, Act of God, warlike hostilities, an Act of Parliament, regulation or direction or any strike or industrial action or epidemic (together "Force Majeure Event") which is beyond the reasonable control of the Venue Operator, then the Venue Operator's respective rights and obligations shall be suspended and the Venue Operator shall be relieved of its respective obligations during the Force Majeure Event. The Venue Operator will as soon

as practicable notify the Hirer in writing of the occurrence of any such Force Majeure Event.

### 25. INCONSISTENCY

Where these Terms and Conditions and the Venue Hire Agreement are inconsistent, the terms of the Venue Hire Agreement will prevail to the extent of the inconsistency.

### 26. NO TENANCY RIGHTS

Nothing in this Agreement shall create any tenancy rights in respect of the Venue.

### 27. NO WAIVER

No waiver or any breach, or failure to enforce any provision of this Agreement at any time by either party shall in any way effect, limit or waive such party's right to enforce and compel strict compliance with the provisions of this Agreement.

### 28. ENTIRE AGREEMENT

This Agreement, including each document, policy or Schedule attached to this Agreement from time to time constitutes the entire Agreement, understanding and arrangement (express or implied) between the parties and supersedes all prior and contemporaneous communications and any prior agreements between the parties regarding a subject matter of this Agreement.

### 29. ASSIGNMENT

The Hirer shall not be entitled to directly or indirectly assign or otherwise dispose of (including by way of subcontract) any of its rights or interests in, or any of its obligations or liabilities under, or in connection with or arising out of this Agreement, except with the prior written consent of the Venue Operator, which consent may be withheld in the Venue Operator's absolute discretion.

### 30. SEVERABILITY

If at any time any part of this Agreement is held by a court of competent jurisdiction to be unreasonable, illegal, invalid or unenforceable for any reason whatsoever, that term will be enforced to the maximum extent permissible so as to affect the parties' intent, and the remainder of the Agreement will continue in full force and effect.

### 31. RELATIONSHIP

Nothing contained in this Agreement shall be construed as creating an employer-employee relationship, a partnership, an agency or a joint venture between the parties. Neither party shall have authority to make any statements, representations or commitments nor to take any action binding the other except as provided in this Agreement or as authorised in writing by the other.

### 32. COSTS

Each party shall bear its own costs relating to the negotiation and preparation of this Agreement and related documentation.

### 33. APPLICABLE LAW

The laws of New Zealand shall govern this Agreement and both parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.

### 34. EXCLUSIONS

Despite anything else contained in this Agreement:

- (a) Nothing in this Agreement is intended to limit or modify any rights that the Hirer may have under the Consumer Guarantees Act 1993;
- (b) The Venue Operator does not warrant or represent that the Venue is suitable for the Event or the Hirer's specific purposes in holding the Event, and the Hirer acknowledges that he/she/it has relied on his/her/its own enquiries and judgement in selecting the Venue and the Services and entering into this Agreement;
- (c) The parties agree and acknowledge that if the goods and services supplied by the Venue Operator and acquired by the Hirer under this Agreement are supplied or acquired in trade within the meaning of the Fair Trading Act 1986, that sections 9, 12A, and 13 of the Fair Trading Act 1986 will not apply to this Agreement; and
- (d) The parties agree and acknowledge that if they are both in trade, and that the goods and services supplied by the Venue Operator and acquired by the Hirer under this Agreement are supplied or acquired in trade, that the provisions of the Consumer Guarantees Act 1993 will not apply to this Agreement; and
- (e) Unless this Agreement expressly provides otherwise, to the fullest extent permissible by law all warranties, conditions or other terms implied by law are excluded; and

- (f) For the purposes of this Clause 34 the Hirer acknowledges that he/she/it had a reasonable opportunity to review this Agreement, discuss it with the Venue Operator, and receive advice from his/her/its legal advisor, if he/she/it wished to do so.

### 35. GOODS & SERVICES TAX

Where the Venue Operator is obliged to account for goods and services tax ("GST") imposed under the Goods and Services Tax Act 1985 on any goods and services supplied under this Agreement, the Venue Operator will render a GST invoice to the Hirer and the Hirer will be obliged to pay GST in addition to the consideration for those supplies at the same time as that consideration is payable.

### 36. INDEMNITIES

- 36.1 Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the Venue Operator and the Hirer and survives termination of this Agreement. It is not necessary for the Venue Operator or the Venue Owner to incur expenses or make payment before enforcing a right of indemnity conferred by this Agreement.
- 36.2 The Hirer unconditionally and irrevocably undertakes that each indemnity in this Agreement that has been given by the Hirer in favour of the Venue Owner under this Agreement constitute a promises that are for the benefit, and are enforceable at the suit, of the Venue Owner pursuant to the Contracts (Privity) Act 1982. Despite this clause, this Agreement may be altered, modified or added to by agreement between the Hirer and the Venue Operator, without the consent of the Venue Owner.

### 37. PERSONAL INFORMATION

Where the Venue Operator collects any personal information in relation to the Hirer, the Hirer authorises the:

- (a) Collection of such personal information;
- (b) Use of such personal information for the purposes of enabling the Hirer to hire the Venue and carry out all its obligations under this Agreement; and
- (c) disclosure of the personal information to such third parties as is necessary for the purposes of enabling the Venue Operator to administer and manage the hire of the Venue by the Hirer and this Agreement, including but not limited to recovery of any money owed by the Hirer or costs incurred by the Venue Operator.