

**Waverley Council**

# BONDI PAVILION

## Theatre Hire Agreement

Between

BONDI PAVILION (“The Venue”)  
Waverley Council trading as Bondi Pavilion (“The Management”)  
Address: Queen Elizabeth Drive, Bondi Beach, NSW 2026 ABN:  
12 502 583 608

AND

PRODUCER/ HIRER (“The Hirer”)

**EXECUTED AS AN AGREEMENT:** I have received and read the terms and conditions below and agree to abide by all the necessary requirements as detailed in the procedures. I also understand that I will be responsible for any monies incurred due to breach of policy, regulation or any damage sustained to the facility and/or equipment during or as a result of this Hire Agreement and agree to comply with all reasonable requests made by Council staff in execution of their duties.

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## 1 Introduction

This agreement and its terms apply to the parties named in the hire agreement.

## 2 Definitions

**Claim/s** means any claims, proceedings, actions, rights of action, liabilities, damages, losses, remedies, expenses, fines and penalties (including associated expenses and legal costs on a full indemnity basis).

**Acquittal** means the final accounting for all income against all charges and expenses as they relate to the hire.

**GST** means a goods and services tax imposed through the GST legislation.

**Booking Fee** means the relevant booking fee referred to in gazetted fees.

**Bump in/out** means the process of moving all The Hirer's equipment, costumes, and property reasonably necessary for the production and use of the venue space used at the beginning and completion of the hire.

**Event** means project, exhibition, conference, meeting, event, performance, or other agreed undertaking forming the agreed use as described in the hire agreement.

**Event Space** means the agreed-upon space at Bondi Pavilion as referred to in the agreement.

**Hirer** means the person/s, or body specified in the agreement, and including, but is not limited to their employees, agents, contractors, customers, visitors and other person/s in The Venue with the consent of the Hirer.

**Hirer charges** mean the fees and charges applied by Bondi Pavilion at the time of the hiring period and may vary from those included at the date of issue of the contract. Fees and charges are applied as per the gazetted fees and charges.

**Bondi Pavilion Staff** means any person engaged by Waverley Council in employ or placement at Bondi Pavilion on wages or casual rates or contract or piecework.

**Gazetted Fees and Charges** means the fees and charges published by Waverley Council. All sums of money are references to sums in Australian currency and all payments will be made in Australian currency.

**Live Performance Award** means the Live Performance Award 2020.

**Management** means the Venue Manager, and or any members of the Bondi Pavilion staffing body authorised to manage the premise at any given time.

**Safety Induction** means the process of writing or reviewing venue safety induction information.

**Season** means the period defined in the agreement. If Management agrees to allow access to The Venue earlier than defined in this agreement, the start date of the season and subsequent agreement will be preceded by this new date.

**Event Booking Schedule** means the document of information required to outline booking needs, schedule, and all other ancillary details for the event or hire.

**Relevant Acts** means the NSW Work Health and Safety Regulation 2017 and or any subsequent, subsidiary or amended legislation.

**The Venue** means Bondi Pavilion, located at Queen Elizabeth Drive, Bondi Beach, NSW 2026.

**Force Majeure** means an event or circumstance, including any act of God, war and other hostilities, fire, flood, storms, accidents, strikes, lock-outs, delays in transport, breakdowns in machinery, epidemics, pandemics, quarantine restrictions, outbreak of disease or any travel restrictions or bans (including bans on non-essential travel) issued by the World Health Organisation or any Australian governmental agency; or restrictions or prohibitions or other acts by any government or semi- government authority, that despite a party's reasonable efforts and without its fault or negligence, it is unable to control and prevent a party from complying with its obligations under this agreement.

**Assistance Animals** are defined by legislation to include guide dogs, hearing dogs and any other animal specially trained to assist a person with a disability. (For further definitions on assistance animals see the Disability Discrimination Act and guidelines or contact the Human Rights & Equal Opportunity Commission for advice).

### 3 Hire Charges

- 3.1 All venue hires will be subject to a minimum hire fee and/or minimum hire time as approved and gazetted by Waverley Council.
- 3.2 Pre-event estimates or quotes provided are based on hire arrangements at the time of provision. Final charges will be based on actual usage and on the relevant gazetted fees and charges at the time of the incurred cost.
- 3.3 All consumables in relation to the hire will be at the Hirer's expense.
- 3.4 All hires incur a cleaning fee payable by the Hirer. An additional cleaning charge may be applied if the hired area is left in an unsatisfactory condition at Management's discretion. Larger events may also attract an increased cleaning fee as required by the discretion of Management.
- 3.5 The Hirer will be responsible for costs of repair or replacement for any damage or removal of items and spaces within their hire.
- 3.6 The Hirer will be subject to additional storage or disposal fees for any items arriving or left onsite outside of hirers dates/times as per agreed schedule.

### 4 Deposit, Security and Bonds

- 4.1 The Hirer must pay Bondi Pavilion the relevant venue hire fee to secure the hire. Bondi Pavilion requires the signed agreement and payment of deposit in order to secure any bookings.
- 4.2 If the Hirer does not pay the deposit within 14 days of the payment request:
- 4.3 The hire is not confirmed, and the Venue may issue a notice, allowing the Hirer 72 hours to pay the deposit. If the deposit is still not received after 72 hours, Management reserves the right to rescind the agreement.
- 4.4 The deposit will be held by Bondi Pavilion and applied against the final acquittal.
- 4.5 A bond may be required for high impact events as measured under [Waverley Councils Events Policy](#).

### 5 Payments

- 5.1 Management will retain all box office sales and other monies in keeping until Acquittal.
- 5.2 From the monies retained Management will deduct all outstanding hire fees and charges as well as any charges incurred on the Hirer's behalf.
- 5.3 Management will prepare a statement setting out the gross box office revenue (less booking fees) less expenses incurred. If the balance remaining is positive, moneys shall be refunded to the Hirer. If the balance remaining is negative an invoice shall be issued to the Hirer with the balance to be paid to the Venue ten (10) working days from issue.

- 5.4 Management will provide a reconciliation to the Hirer within ten (10) working days from the conclusion of the Hire period. The Hirer will then be required to provide an invoice to Bondi Pavilion for the settlement amount prior to transfer.
- 5.5 Any additional fees arising from internet ticket or credit card sales are to be borne by the Hirer.
- 5.6 Any costs incurred by Management on behalf of the Hirer, that are unknown or unable to be determined at the time of settlement, will be deemed the responsibility of the Hirer and costs passed on accordingly.
- 5.7 It is the Hirer's responsibility to inform the venue of the GST status of their organisation or persons. If not advised, Management will assume a GST component and apply as appropriate to ticket and other related charges.

## 6 Hirers Obligations

- 6.1 The Hirer will not do anything by which a permit or licence issued to The Venue or in force under the Management of Bondi Pavilion may be liable, forfeited, suspended or denied renewal.
- 6.2 The Hirer will in all respects observe and comply with any/all by-laws of Bondi Pavilion in force at the time of their hire, and must follow any direction given by Management in relation to the Venue Bondi Pavilion, Waverley Council's policies or Bondi Pavilion's terms and conditions.
- 6.3 Hirers are not to act in any way that directly or indirectly provides an impact, nuisance, or conflict with other users of the premises or that is deemed by Management to be aggressive, dangerous, disorderly, noxious, riotous, offensive, illegal or questionable. Any such behaviour will result in immediate removal from the premises and reporting as appropriate to local authorities.
- 6.4 The Hirer must provide the name and contact details of the Hirer's authorised representative if the Hirer is not present for the duration of the hire.
- 6.5 The Hirer is responsible for providing an adequate and reasonable duty of care to any persons under eighteen (18) as brought into the Venue as a result of the Hirer's activities.
- 6.6 Where Management deems the Hirer has not adequately met this obligation, additional supervision may be provided by Management at full cost to the Hirer.

## 7 Staffing

- 7.1 The Venue Hire fee does not include any associated staffing costs unless otherwise agreed upon by both parties.
- 7.2 Bondi Pavilion staff must be present at all times when a Hirer is onsite. Management reserves the right to dictate the minimum required staff for any activities occurring onsite.
- 7.3 All costs incurred for staffing will be charged to the Hirer at Waverley Council's Gazetted Fees and Charges.
- 7.4 Where specialist staff are required to be engaged by Management for the delivery of the Hire, charges will be incurred by the Hirer.
- 7.5 Any staff in the employ of Management will be operating under the Local Government Award.
- 7.6 The Hirer may employ their own staffing in addition the minimum required Venue staff at their own expense, subject to suitable expertise and completion of appropriate venue induction.
- 7.7 A venue safety induction will be given by venue staff to the hirer at the start of any hire period.

## 8 Access

- 8.1 The hire charge for the Venue does not include the exclusive use of any other space or ancillary areas.
- 8.2 Management retains the right to allow use by other hirers and or public access to ancillary areas surrounding hireable spaces in addition to any and all other hireable areas. This use is on the provision that the additional access, venue space use does not reasonably impact on the Hirer's activities.
- 8.3 A schedule will be provided by the Hirer to Management no later than one (1) month prior to the commencement of the hire.
- 8.4 The schedule must allow appropriate time either side of any event for the purposes of the Hirer's set up and pack down.
- 8.5 Variations to the schedule may be made to this schedule by both agreement of both parties and in writing.
  - 8.3.2. Variations to the schedule within 48 hours of commencement may result in additional staffing charges.
- 8.6 Access to the hired space will be from a pre-agreed location dependent on the hired space. Access into the hired space will be in strict accordance with the hire period and schedule.
- 8.7 Engagement and hire of the Theatre requires a safety induction to be included in the first 10 minutes of access for the first day of access for any persons acting as representatives of the hire.
- 8.8 The Venue's Theatre and any additional space requiring specific set up will be charged for the set up and pack down of these spaces outside the period of the hire.

## 9 Box Office

- 9.1 Bondi Pavilion's Box Office will be the sole ticket seller for any and all performances or events at The Venue unless otherwise agreed by both parties.
- 9.2 A schedule of event dates and times, event copy and any images/video cleared for use must be provided in writing to Management at least two (2) weeks prior to the on-sale date.
- 9.3 Ticket sale types, prices, special offers and seating requirements must be submitted in writing to Management at least two (2) weeks prior to on-sale date.
- 9.4 Box Office and any associate fees will be applicable as per Waverley Council's Gazetted Fees and Charges.
- 9.5 The Venue will retain four (4) House Seats for any and all performances in the Theatre for use at its discretion. If unallocated, the seats may be returned for sale two (2) minutes prior to the commencement of the event.
- 9.6 Complimentary tickets will be made available through the Venue's Box Office after written request is received by the Hirer or nominated representative of the Hirer subject to availability at the time of request and incurring any associated ticketing fees at cost to the Hirer.
- 9.7 The Venue retains the right to issue a refund request where deemed reasonable as required under the Live Performance Australia Ticketing Code of Conduct or Bondi Pavilion's ticket purchase terms and conditions. For avoidance of 'doubt', change of mind is not deemed a reasonable request.
- 9.8 Waverley Council is part of the Companion Card Scheme, as such all hirers must allow the use and engagement of companion card users to access a free seat in ancillary to the individual receiving companionship for any paid events.

## 10 Data Provisions

- 10.1 All data collected is subject to Waverley Council's Privacy Policy.
- 10.2 The Hirer must comply at all times with the National Privacy Act 1988 and the NSW Privacy and Personal Information Protections Act 1988.

## 11 Marketing

- 11.1 Unless otherwise agreed upon, the Hirer will be responsible for the cost of all publicity announcements and/or promotions of its events.
- 11.2 The Venue reserves the right not to display or provide display space for any promotional materials such as flyers, banners or posters as determined by the Bondi Pavilion Plan of Management.
- 11.3 All promotional material and advertisements by the Hirer must read:

‘Hirer’s Name’  
Presents  
‘Event Name/Production’  
at Bondi Pavilion

- 11.4 Any promotional material and advertising published by the Hirer must account for the relevant booking fee in any ticket prices and must include the wording “transaction fees may apply”.
- 11.5 The use of Management’s logo or the logo of Waverley Council is strictly prohibited unless authorised by Management.
- 11.6 Any signage, displays, or associated marketing materials wishing to be displayed onsite must be sent to Management two (2) weeks prior to the commencement of the hire for approval. Management reserves the right to deny any signage or displays that are deemed inappropriate, unsafe or in conflict with The Venue as determined by the Bondi Pavilion Plan of Management.

## 12 Merchandising

- 12.1 All merchandising and programs sold in the Venue will be subject to any associated merchant fees payable to Management, who will also retain 10% of all sales as per Waverley Council’s Gazetted Fees and Charges.
- 12.2 All merchandise and/or program sales must be approved by Management in writing in advance of the Hirer’s commencement date. Management reserves the right to deny the sale or merchandise or any items it deems to be inappropriate, offensive or in conflict with existing operational agreements.

## 13 Insurance, Release and Indemnity

- 13.1 The Hirer must provide The Venue with a Certificate of Currency for product and public liability insurance coverage of no less than twenty million dollars (\$20,000,000):
  - 13.1.1 all insurance policies must be held with a reputable insurer acceptable to Management;
  - 13.1.2 to be for amounts to cover such risks as are reasonably required by Management and contain such conditions as are reasonably acceptable to Management;
  - 13.1.3 have no exclusions, endorsements or alterations unless consented by Management;
  - 13.1.4 have endorsed upon them the rights and interests of Management;
  - 13.1.5 include a cross-liability clause providing that ‘the insured’ applies to each party as though a separate one had been issued to them.

- 13.2 The Hirer will ensure than all items brought onto the premises in connection with the agreed upon hire are for the purposes and within the scope the of intended hire.
- 13.3 The Hirer shall at all times observe and comply with the provisions of all industrial agreements, awards and interpretations of these in relation to any person(s), contractors or third parties engaged on behalf of the Hirer in connection to any activity onsite or associated with the hire. Management reserves the right to view upon request and associated licenses or certificates from any person(s) or contractors engaged by the Hirer.
- 13.4 The Hirer occupies The Venue at its own risk. All property of the Hirer in The Venue is at the sole risk of the Hirer. If any loss or damage arisen from any cause covered by the Hirer's insurance, the Hirer must apply immediately for the insurance money and expend it together with the Hirer's money to promptly rectify the loss or damage.
- 13.5 Except to the extent that it is caused by the wilful act or omission or negligence of Management, its employees, agents or contractors, (except where enforceable by law) the Hirer cannot make a claim against Management and releases Management from and indemnifies it against all claims for damages, loss, injury or death which:
  - 13.5.1 occur in or around the Venue during the time which the Hirer has occupancy; or
  - 13.5.1. arise from the use of the Venue by the Hirer or the Hirer's invitees.

## 14 Permits/Licences

- 14.1 The Hirer must have in place all necessary permits, licences and rights required to undertake the intended activities at The Venue and are responsible for payment of any fees, taxes, levies, and charges affiliated with these.
- 14.2 Hirers will not conduct any raffles, lotteries, gaming, collections or solicitation whether for charity or otherwise without the explicit approval and consent of Management. Consent of these activities will only be eligible in line with the conditions imposed by the NSW Office of Liquor, Gaming and Racing, Australia.
- 14.3 Management reserves the right to cancel the Hirer's activities should the user and/or any subcontractor, employee or associated third party have not taken reasonable steps to obtain any relevant license/s, insurance/s or statutory requirements for the activity being undertaken.

## 15 Copyright

- 15.1 The Hirer shall not breach or infringe the permit or any copyright or performing right or any other protected right in connection directly or indirectly with the agreed upon use. The Hirer must provide evidence of necessary permissions/consents from the copyright owner and author of the work (if different from the copyright owner) in relation to any activity which uses other works and the intellectual property in those works vests in another party or another party was the author of those works.
- 15.2 The payments and associated fees for permissions/consent and use of any work pertaining rights is the sole responsibility of the Hirer, and the Hirer must ensure prompt payment of royalties and other associated fees.
- 15.3 The Hirer indemnifies Management from any action damage or cost associated with breach of copyright or any licensing arrangement as a result of actions taken by the Hirer.

## 16 Sound, Photographic and Video Recording

- 16.1 The use of sound, video, photography or other multimedia capturing platform/technology in any public spaces/events is not permitted without the consent of Management and prior to any tickets going on sale.
- 16.2 If approval is granted for an event to be recorded or transmitted whether live or recorded for later transmission, exhibition, distribution or sale all publicity and advertising must clearly state such is the case.
- 16.3 In the event any event is broadcast from The Venue a fee as specified by the Live Performance Award Transmission or recording allowance will be payable to all employees engaged by the Hirer and/or The Venue who perform work on that performance

or

- 16.4 In the event any event is broadcast from The Venue additional fees may apply. If any recording is sold from The Venue, merchandising fees as per Waverley Council's Gazetted Fees and Charges will apply.

## 17 Noise

- 17.1 Management reserves the right to exercise control of sound levels within The Venue to ensure event activity does not impede on the safety and effectiveness of member of the public and Management staff. The Hirer must comply with the reasonable determinations by Management or authorised officer in relation to sound level limits. Reasonable determinations are made in line with the Protection of the Environmental Operations Act 1997 and the Protection of the Environment (Noise Control) Regulation 2000.

## 18 Equipment

- 18.1 The Hirer must ensure that equipment and ancillary items brought into The Venue such as props, curtains, decorations or costumes have been fire-proofed (where required) in accordance with the prevailing Fire Code in the state of NSW.
- 18.2 All electrical equipment brought into The Venue must have the approval of Management prior to the commencement of hire and appropriate safety processes in place where appropriate. All electrical items brought into The Venue must display current electrical safety tag.
- 18.3 The Hirer must not bring into The Venue any volatile, flammable, explosive or dangerous substances including pyrotechnics and chemicals without the explicit approval of Management. The Hirer will be required to immediately remove any dangerous goods or hazardous substances brought onto site without the approval of Management or are being misused. The Hirer is responsible for ensuring all appropriate Material Safety Data Sheet/s for all hazardous substances or goods brought onto the premises.
- 18.4 The operation of electrical installations, special effects, lighting, pyrotechnics, working at heights, sound and fly system operation shall only be carried out by skilled and competent personnel provided by The Venue or nominated by the Hirer with approval of Management.
- 18.5 The Hirer must submit to Management an event/production risk assessment including all sets, displays, decorations, special effects, rigging and safety procedures one (1) month prior to the commencement of the hire.
- 18.6 The Hirer must submit to Management in writing one (1) month prior to the commencement of the hire and a minimum of two (2) weeks prior to the on sale of tickets, whichever comes first, for approval if undertaking the following activities:
  - naked flame

- flammable surfaces
- hot work/pyrotechnics
- strobe lighting
- lasers
- helium balloons or other helium/gas use
- weapons
- smoke, haze, snow machines, confetti or other distribution machines.

Approval will not be permitted for any activity requiring the discharge of ammunition from a firearm, the use of anything giving off a level of heat or toxicity that poses a threat of harm, the use of any sharp implement that poses a threat or harm.

The Hirer must submit to Management a risk assessment outlining any plans or schedules for any other elements that may constitute a risk to the safety of persons.

## 19 Prohibited Activities

- 19.1 Smoking is not permitted in or within a 10-meter radius of any doorway, window or air vent of The Venue through the Smoke Free Environment Act 2000 and the Occupational Health and Safety Act 2000.  
Smoking is only permitted as part of a performance when it is delivered as a theatrical element excluding tobacco or other such substances and essential to the rehearsal or performance and accompanied by a relevant risk management plan provided by the Hirer.
- 19.2 Alcohol may not be brought onto the premises except by prior written permission of the Licensee and Management. The consumption of alcohol or other substances that may impair normal function of the central nervous system is prohibited to any staff employed by The Venue or the Hirer both before and whilst working in The Venue.
- 19.3 It is prohibited for any person/s to sell, consume, be under the influence or solicit any illegal substance whilst on the premises of The Venue (including surrounding external areas).  
If person/s are taking prescription medication that may impact their safety or the safety of others whilst at The Venue, they must refrain from undertaking any activities in the venue. The use of prescription medication without medical direction is considered a breach of this policy.  
  
The Hirer must inform Management of any personnel of the Hirer who are taking or have an existing condition that may impair their performance, duties, safety of themselves or others. As per clause 6.5 Management may deem the person/s not capable of arrange for replacement staff and or removal of the person/s from the premises. In the case of Performers, if deemed by Management or agent acting on Managements behalf to be a hazard to themselves or others, they will be prohibited from taking part in the performance.
- 19.4 With the exception of Assistance Animals, animals will not be permitted at The Venue without prior approval of Management and must be expertly cared for. The owner will hold exclusive responsibility for the animal/s and must demonstrate compliance with relevant animal protection and welfare requirements. Any persons found mistreating animals will be reported to the appropriate authorities.

## 20 Capacity/Emergency Services

- 20.1 Building and health regulations do not permit capacity numbers to exceed the certified occupancy or seating capabilities of the various spaces within The Venue. The Hirer must comply at all times with the capacity limits in place.

- 20.2 Management reserves the right to refuse a booking if event requirements exceed capacity on the grounds of health and safety.
- 20.3 Management reserves the right to restrict entry to The Venue once the legal capacity has been reached and put in place at the cost to the Hirer any systems required to enforce occupancy limits.
- 20.4 The Hirer must not obstruct, hinder, damage or cause disturbance to any emergency equipment systems or activities including, but not limited to, the obstruction of doorways, extinguishers, refusal to follow emergency procedures, or to hinder or impede any activity onsite by emergency services.
- 20.5 Management reserves the right to revoke or alter activity by the Hirer if at any time in the opinion of management:
  - 20.5.1 there exists an emergency in the premises due to an actual or imminent occurrence that causes or threatens to cause loss of life, injury or distress to persons or danger to the safety of the public or destruction or damage to property;
  - 20.5.2 or The Venue is required, requisitioned, or resumed for the use of a Government or public authority for any public purpose by reason of emergency;
  - 20.5.3 or the premises is damaged or destroyed by act of war or resisting or repelling such action or is being repaired, remedied or made good or attempts are being made to do so as a result of such action;
  - 20.5.4 or a breach of copyright;
  - 20.5.5 or the use of The Venue and/or premises for the agreed use in respect of which this licence is granted, prohibited or obstructed for hindered by any reason of any industrial act or act of God or civic disorder.

## 21 Capacity/Emergency Services

- 21.1 Building and health regulations do not permit capacity numbers to exceed the certified occupancy or seating capabilities of the various spaces within The Venue. The Hirer must comply at all times with the capacity limits in place.
- 21.2 Management reserves the right to refuse a booking if event requirements exceed capacity on the grounds of health and safety.
- 21.3 Management reserves the right to restrict entry to The Venue once the legal capacity has been reached and put in place at the cost to the Hirer any systems required to enforce occupancy limits.
- 21.4 The Hirer must not obstruct, hinder, damage or cause disturbance to any emergency equipment systems or activities including, but not limited to, the obstruction of doorways, extinguishers, refusal to follow emergency procedures, or to hinder or impede any activity onsite by emergency services.
- 21.5 Management reserves the right to revoke or alter activity by the Hirer if at any time in the opinion of management:
  - 21.5.1 there exists an emergency in the premises due to an actual or imminent occurrence that causes or threatens to cause loss of life, injury or distress to persons or danger to the safety of the public or destruction or damage to property;
  - 21.5.2 or The Venue is required, requisitioned, or resumed for the use of a Government or public authority for any public purpose by reason of emergency;
  - 21.5.3 or the premises is damaged or destroyed by act of war or resisting or repelling such action or is being repaired, remedied or made good or attempts are being made to do so as a result of such action;
  - 21.5.4 or a breach of copyright;
  - 21.5.5 or the use of The Venue and/or premises for the agreed use in respect of which this licence is granted, prohibited or obstructed for hindered by any reason of any industrial act or act of God or civic disorder.

## 22 Work Health and Safety

- 22.1 The Hirer and its subcontractors shall provide a safe workplace for its employees and subcontractors in line with statutory obligations, licences, permits and codes associated with work health and safety.
- 22.2 The Hirer and its subcontractors shall comply with the NSW Work Health and Safety Act 2011 and the NSW Work Health and Safety Regulation 2017.
- 22.3 The Hirer will use and occupy The Venue in a manner that is safe for all persons:
  - 22.3.1 Management shall be entitled to review and audit;
  - 22.3.2 compliance by The Hirer with public safety obligations;
  - 22.3.3 the Hirer's public safety systems;
  - 22.3.4 any procedures or work practices by the Hirer which have public safety implications.
- 22.4 Management shall be provided access to any required records or documents including those of any subcontractor which is relevant to the review and audit functions described in 21.3.
- 22.5 If Management determines that the Hirer must make a provision or implement some measure in order to comply with public safety obligations of it or Management, Management may direct the Hirer to make that provision or measure and the Hirer shall do so as soon as reasonably is possible at the sole expense of the Hirer.
- 22.6 Where Management decides to give direction under sub-clause 21.3, Management may also direct the Hirer to suspend part or all of its activities until remedies are put in place. Such direction will be effective regardless of whether the Hirer disputes the necessity for the provision. Any reasonable costs shall be borne to the Hirer except in circumstances where a dispute exists and the dispute is found in the Hirer's favour in which case all reasonable costs and expenses shall be borne by Management.
- 22.7 The Hirer will notify Management of any public safety incident or other circumstance that requires notification to external parties or which may result in investigation by external parties. Such notification shall include full particulars of the instance or circumstance.
- 22.8 The Hirer will be entitled to carry out its own investigation for any incident or circumstance that it becomes aware of, and the Hirer shall cooperate in such investigation and provide Management with access to all persons and other matters that may facilitate the investigation.

## 23 Environmental

- 23.1 The Hirer and its subcontractors shall at all times comply with Federal and State environmental legislation in force in New South Wales.
- 23.2 The Hirer and its subcontractors shall at all times comply with the statutory requirement placed on Management by section 7(e) of the Local Government Act 1993, namely 'to require Councils, Councillors and Council employees to have a regard to the principles of ecologically sustainable development in carrying out their responsibilities'.
- 23.3 The Hirer must dispose of all waste generated by their activities in the most environmentally sensitive manner. Bondi Pavilion encourages waste minimisation and wherever possible, waste materials should be recycled or reused. No chemicals, slurries, grey water, paint or like substances must be allowed to enter the drainage system. Disposing of any waste matter in a manner contravening the Environmental Protection Act will result in the Hirer being reported to the appropriate authority.

## 24 Termination

- 24.1 The Hirer agrees that each and every term and condition is an essential term and condition and in the event of the Hirer committing a breach or not observing any of the terms of this Agreement, the Agreement may be terminated immediately by Management without notice and without any prejudice to any right or action which may arise prior to such termination.
- 24.2 Management reserves the right to terminate any booking for reasons of breach of contract, dangerous practices or non-observation or legislative regulation or when in the reasonable opinion of Management, the Hirer has commenced a course of conduct which does or would render the Hirer in default under this agreement.

## 25 Cancellation

- 25.1 Cancellation of the Event by The Venue will render The Venue liable to refund all monies already paid by the Hirer back to the Hirer, including any deposit paid. The Venue will not be liable for any other costs incurred by the Hirer.
- 25.2 If The Venue hire is confirmed by agreement and paid deposit, and if the booking is retained but dates are amended after an Event has gone on sale the Hirer will be liable for the Event change charges listed below in addition to standard Event fees and charges as part of the reconciliation:
- and any cost associated with the cancellation or transfer of goods, services or products to new event dates;
  - provision of options as per Live Performance Australia's Ticketing Code of Practice, including the option of refund.
- 25.3 If The Venue hire is confirmed by agreement and paid deposit, and then cancelled by the Hirer, the Hirer will be liable for:
- and any other fees applicable for products and/or services already used;
  - and any charges for goods already purchased on behalf of the Hirer;
  - and payment of venue hire fees as follows:
    - i. 0–30 days prior to the hire commencement date 100% of the total venue hire fee. The hirer will be invoiced for any outstanding monies owed.
    - ii. 31–60 days prior to the hire commencement date 50% of the total venue hire fee. If 100% of the venue hire fee has been paid 50% will be refunded/deducted from monies owing.
    - iii. More than 61 days prior to the hire commencement date, any venue hire deposit paid shall be refunded/deducted from monies owed.

## 26 Force Majeure

- 26.1 25.2. Neither party will be liable for damages or otherwise to the other party for failure to comply with this agreement solely caused by any act of god, landslip, landslide, lighting, earthquake, fire, storm, flood, wash-out, blockade, epidemic, pandemic, civil disturbance, explosion, loss of electricity or other essential building services not in the direct negligence of the party of Management, the binding order of any court or governmental or local authority, or any other cause, whether of the kind described in this clause or not, not within the control of a party invoking this clause and which by the exercise of due diligence such party is unable to prevent or overcome ("Force Majeure").

- 26.2 Industrial Disturbances: A failure to settle or prevent any strike or other controversy with employees or with anyone purporting or seeking to represent employees shall not be considered to be a matter within the control of a party invoking clause 25.1. Nothing in this clause shall be construed to require any party to settle a strike, lockout or other industrial disturbance by acceding against its own judgment to the demands of opposing parties.
- 26.3 Termination on Force Majeure: If the Force Majeure continues for more than twenty-one (21)
- 26.4 days, then either party may upon not less than ten (10) days' notice terminate this agreement.
- 26.5 Obligations of Party Invoking: The party invoking Clause 25.1 shall use all reasonable endeavours to overcome or avoid the Force Majeure and use all reasonable endeavours to mitigate the effects or consequences of the Force Majeure.

## 27 Interpretations

- 27.1 In the interpretation of this Agreement words importing the masculine, feminine or neuter gender shall be deemed and taken to include the other genders, and the singular to include the plural, and the plural the singular, unless the contrary as to the gender or number is expressly provided.
- 27.2 For the purpose of this Agreement, it is agreed that any provisions or arrangements made between Management and the Hirer set down in writing and signed by or on behalf of Management and the Hirer shall become part of this Agreement.
- 27.3 All attached riders, addenda, attachments, schedules and specifications are to be considered an integral part of the Agreement and are to be adhered to accordingly.
- 27.4 26.7. This Agreement shall be construed in accordance with the laws of the State of New South Wales and shall be deemed to have been made in New South Wales and any dispute arising hereunder or in any way relating to this Agreement or its performance shall be justiciable in the Courts of the State of New South Wales.

## 28 Disputes

- 28.1 If a dispute arises out of or relates to this Agreement a party to the Agreement may not commence court or arbitration proceedings in relation to the dispute unless it has complied with the following paragraphs of this clause except where the party seeks urgent interlocutory relief:
- 28.2 A party to this Agreement claiming that a dispute has arisen under or in relation to this Agreement shall give notice specifying the nature of the dispute.
- 28.3 On receipt of this notice by the other party the parties to this Agreement must endeavour in good faith to resolve the dispute expeditiously using informal resolution techniques such as mediation, expert evaluation or determination or similar techniques agreed by them.
- 28.4 If the parties do not agree within seven (7) days of the receipt of the notice (or such further period as may be agreed in writing by them) as to:
- 28.4.1 the dispute resolution technique and procedures to be adopted;
- 28.4.2 timetable for all the steps in those procedures; and
- 28.4.3 the selection and compensation of the independent person/s required for such a technique;
- 28.4.4 all disputes arising out of this Agreement will be submitted to mediation in accordance with the rules of the Arts Law Centre Mediation Service, a program of the Arts Law
- 28.5 Australia, prior to having recourse to arbitration or litigation. The costs of any mediation or arbitration pursuant to this clause shall be borne equally both parties;
- 28.6 each party must mediate any dispute in accordance with the laws of New South Wales.

## **29 Severability**

- 29.1 If any provision of this Agreement is held invalid, unenforceable or illegal for any reason this Agreement shall remain in full force apart from such provision which shall be deemed deleted.

## **30 Binding Upon Executors**

- 30.1 This Agreement is binding upon executors, successors and permitted assigns of the parties hereto.

## **31 Entire Agreement**

- 31.1 This Agreement constitutes the entire Agreement between the parties. Any prior arrangements, representations or undertakings are superseded. No modification or alterations of any clause of this Agreement will be valid except in writing and signed by both parties.

## **32 Confidentiality**

- 32.1 Neither party shall use or divulge to any person in any circumstances the terms of this Agreement or any confidential information provided to the other party that may come within the parties knowledge in the course of the Hire, except if directed to do so under law.
- 32.2 Both parties shall ensure that any persons employed or subcontractors engaged by them do not disclose or discuss with any other person in any circumstances any confidential information except if directed to do so under law.
- 32.3 Either party shall promptly advise the other of any breach of confidentiality coming to their attention and shall provide the other with written details of the circumstances, substance and nature of the breach of confidentiality and the name and address of any person known or suspected by them to have been involved in the breach including any employee, subcontractor or recipient of confidential information

## **33 Health Orders**

- 33.1 All users, their employees, patrons or other persons must act in accordance with any applicable health orders.