

TERMS AND CONDITIONS OF VENUE HIRE

THESE TERMS AND CONDITIONS OF HIRE apply to the parties named in the attached Agreement.

WHEREAS THE PARTIES AGREE AS FOLLOWS:

1 DEFINITIONS

1.1 In these Terms and Conditions of Hire and Agreement hereto unless the context of subject matter otherwise dictates or requires the following expressions shall have the meanings hereby assigned to them:

"Centre" means the Darwin Performing Arts Centre named in the Agreement and which comprises areas as specified in Part 1 of the Agreement;

"Playhouse/Studio Theatres" means The Theatres in the Centre;

"Owner" means the Darwin Performing Arts Centre a company limited by guarantee incorporated in the Northern Territory;

"Hirer" means the person or body specified in Part 1 of the Agreement;

"Venue Management" means the person authorised by the Owner to manage the Centre;

"Agreed" means agreed in writing from time to time between the Owner and the Hirer;

"Agreed Use" means the performance or series of performances specified in Part 3 of the Agreement and includes any access to associated areas that the Owner may grant to the Hirer or his agents or servants or employees or contractors to the Centre or part of the Centre for the preparation of any performance or series of performances or for any other purpose;

"Approved" means approved in writing from time to time by the venue management;

"Liquor" means a beverage that contains more than 1.15% by volume of ethyl alcohol;

"Performance" means the presentation or exhibition of items or works of a musical, dramatic, instructive or other agreed nature specified in Part 3 of the Agreement by way of discharge of the Terms and Conditions of Hire;

"Strike" means a strike as defined in the Industrial Awards of the Northern Territory and includes---

(a) bans or limitations on work imposed by employees with a view to enforcing compliance by an employer or employers generally with demands made on him or them by or on behalf of employees; and

(b) a partial or total cessation on work approved by a registered industrial association of employees;

"Centre Staff" means any person employed by the Owner whether on wages or casual rates or piecework rates or a person under contract to the Owner for labour only or substantially for labour only;

"Authorised Officer" means any person determined by the Venue Management as having particular authority;

"Cancelled" in relation to the Agreed Use means the failure by the Hirer to proceed with the Agreed Use or any part thereof due either to a breach by the Hirer of the provisions of the Terms and Conditions of Hire which may or may not result in the revocation by the Owner of the Agreement or any other reason whatsoever;

"Commencement" in relation to a Performance means the time at which the first item is presented during the Performance;

"Conclusion" in relation to a Performance means the time at which the last item presented that Performance is concluded;

"Dressing Rooms" shall mean those rooms or areas so designated for that purpose by the Venue Management or the Authorised Officer for use during the preparation of and in the course of Performances;

1.2 words importing the singular shall include the plural and vice versa and reference to one gender shall include all genders;

1.3 where two or more persons are Hirers, the Terms and Conditions of Hire shall bind the Hirers and any two or greater number of them jointly and each of them severally and shall also bind the executors administrators and permitted assignees of them and every two or greater number of them jointly and severally;

1.4 headings herein are for convenient reference only and shall not in any way control or affect the construction of the Terms and Conditions of Hire or any clause thereof; and

1.5 a reference to any designated room area or part of the Centre referred to in the Term and Conditions of Hire shall be a reference to that room area or part of the Centre as defined or described in a plan kept in the administration area of the Centre.

2 HIRING OF THE CENTRE

Subject to the provisions of the Terms and Conditions of Hire the Owner grants the Hirer authority to use and occupy the part or parts of the Centre as specified in Part 2 of the Agreement for the purpose only of the Agreed Use and the Hirer agrees to Undertake the Agreed Use accordingly.

3 PAYMENTS

3.1 Agreement

In consideration of the Agreement made herein the Hirer will pay to the Owner the amounts specified in Part 4 of the Agreement at the time and in the manner specified;

3.2 Deposit

the Hirer shall upon the signing of the Agreement, pay a deposit as specified in Part 4 of the Agreement no later than the date specified and the Hirer grants a charge over the said deposit in favor of the Owner as security for all monies payable by the Hirer under the agreement;

3.3 the Owner may apply for the deposit for or towards the discharge or payment of any liability of the Hirer to the Owner;

3.4 provided that the Hirer shall have complied with the Terms and Conditions of Hire, the deposit or such balance thereof as remains after any deduction for payment as provided herein shall be repaid by the Hirer;

3.5 ***Forfeitures***

at the discretion of the Owner, any amounts paid by the Hirer including the deposit pursuant to the Terms and Conditions of Hire will be forfeited to the Owner in the event that the proposed hiring does not proceed;

3.6 ***Over-runs***

in the event of the Agreed Use extending beyond the time of expiration of the Agreement as specified in Part 2 of the Agreement, the Hirer will be required to pay to the Owner a further amount for each half hour or part thereof during which the Agreed Use extends beyond the time as Agreed in Part 6 of the Agreement;

3.7 ***Omission of Single Nights***

if any single night is omitted from a season hiring at the Hirer's request, the Hirer will be liable for payment of the normal rental except when such omission is due to a prior booking, or the date is taken up by another hirer;

3.8 ***Retention of Box Office Receipts***

should the Hirer default in making any of the payments pursuant to the Terms and Conditions of Hire the owner may, in addition to any other remedy possess under the Terms and Conditions of Hire, and at the complete discretion of the Owner, take control of the proceeds of ticket sales collected or received by the Owner in connection with Agreed Use and apply such monies as follows:

- (a) in refunding collected monies to ticket holders; and
- (b) in payment to the Owner in compensation for deficiency or loss or damage arising by virtue of the Hirer's breach of the Terms and Conditions of Hire being a liability incurred by the Hirer or arising in connection with the Agreed Use.

provided that nothing in the Terms and Conditions of Hire shall be interpreted as making the Owner or any of its agents or servants liable to the Hirer for any loss in ticket revenue due to fraud or non-payment by a purchaser;

3.9 the Hirer covenants and agrees with the Owner to produce and present at its own expense in all things the Performance set out in Part 3 of the Agreement and in addition to the costs and expenses incurred in the production and presentation of the said Performance it shall at the conclusion of the contractual period or at such other time as may be determined by the Venue Management pay to the Owner;

3.9.1 ***Centre Staff***

any costs incurred for staff provided by the Owner for the Hirer's use or as are considered necessary to meet the Hirer's requirements at the applicable labour charge out rates as specified in Part 8 of the Agreement. The Owner reserves the right to specify a minimum number of staff to be engaged or present during any time of the Agreed Use.

Staff overruns – first 2 hours at time and a half, double time thereafter.

3.9.2 ***Booking Fee***

as specified on Part 7 of the Agreement, a fee levied in respect to all tickets disbursed;

3.9.3 ***Credit Charges***

as specified in Part 7 of the Agreement charges and service fees payable in respect of ticket sales in connection with the Agreed Use;

3.9.4 ***Promotion Advertising***

where the Hirer requests the Venue Management to assist with advertising and promotion, the sum to be spent must be Agreed in advance of the Agreement being made and the costs incurred at the Hirer's request and paid or payable by the Owner or payable to the Owner for promotion and publicity materials, advertising materials, advertising space and the distribution of promotion and publicity materials, or any other cost or expense relating to the promotion and/or advertising of the Agreed Use howsoever incurred;

3.9.5 ***Cleaning Waste Disposal***

the amount of any cost or expense incurred by the Owner for the purpose of maintaining that part of the Centre in respect of which the Agreement is made in a clean and sanitary condition including the cost of waste disposal at the sole discretion of the Venue Management;

3.9.6 ***Production Charges***

as specified in Part 5 of the Agreement, amounts determined by the Owner for all power air conditioning and stage operational costs and production hires and charges; and

3.9.7 any other cost for facilities, equipment, services, or items provided by the Owner on the Hirer's behalf.

4 **USE OF THE CENTRE**

The Hirer further agrees with the Owner as follows ---

4.1 ***Date Time and Number of Performances***

A Performance or event covered by the Terms and Conditions of Hire will be held on the date or dates and times as Agreed in Part 2 of the Agreement and only in such numbers as are Agreed;

4.2 the Hirer will not commence any Performance or event earlier or later than the starting time or times specified in Part 2 of the Agreement unless such change of time shall have previously been approved by the Venue Management or Authorised Officer;

4.3 ***Use of Additional Staff***

the hirer will not use or employ any additional staff to that of the Centre Staff unless the use or employment of such staff has been previously approved by the Venue Management or Authorised Officer;

4.4 ***Technical Box Office Front of House and Promotional Requirements***

the Hirer shall deliver to the Venue Management not later than the date specified in Part 5 of the Agreement full particulars of the Hirer's technical staging, box office, labour and front of house requirements on the completed Questionnaires supplied by the Owner;

4.5 ***Keys***

all keys to doors and equipment in the Centre will be kept in the charge of such persons authorised by the Venue Management;

4.6 *Liquor and Catering*

the Owner retains all liquor and catering rights throughout the Centre and no alcoholic beverage may be bought onto the premises;

4.7 *Safe and Proper Use of the Centre*

the Hirer and his agents or servants will use the Centre and its facilities and its equipment in a safe proper and efficient manner to the satisfaction of the Venue Management and will immediately comply with any direction of the Venue Management or Authorised Officer in connection with the safe and proper use of the Centre and its facilities and equipment and following the Agreed Use;

(a) leave the Centre and its facilities and equipment in a clean safe and proper condition to the satisfaction of the Venue Management or Authorised Officer; and

(b) restore, at his own cost, all sound lighting and staging apparatus to the basic standard rig to the satisfaction of the Venue Management or Authorised Officer;

4.8 *Alterations and Additions*

the Hirer will not make any alteration or addition to the structure or fittings or facilities or equipment of the Centre; and

4.9 the Hirer will not provide, install or suspend any additional decoration or furnishing to any part of the Centre unless the same shall have been previously approved by the Venue Management and the Hirer shall, immediately after such Performance and compromising the Agreed Use or if Agreed immediately after a series of events or Performances, remove all such additional decoration or furnishing;

4.10 *Additional Equipment*

if the Hirer wishes to use his own sound, lighting or other electrical device or mechanical equipment, this must be of a standard acceptable to the Venue Management and accordingly the Hirer is required to submit such equipment for inspection and approval by the Venue Management or Authorised Officer; and

4.11 installation by the Hirer of a sound or lighting desk in any auditorium of the Centre must be authorised by the Venue Management. This may only be placed in the back of the stalls in the appropriately designated area. No other position in the auditorium will be permitted. Any seating rendered unsaleable or disadvantaged will be removed from the seating plan and such seating will not be duplicated elsewhere;

4.12 should the Hirer wish to place any other equipment in any auditorium of the Centre, it must be placed so that audience viewing is not obstructed. If such placement is likely to result in reduced seating capacity, the Hirer must present detailed information to the Venue Management to enable tickets to be sold to an accurate seating plan;

4.13 *Sound Levels*

the Owner reserves any right to exercise control of sound levels within the Centre. Such levels shall not exceed ninety (90) decibels. Failure to comply with this strict requirement will result in the forfeiture of the Hirer's entire deposit;

4.14 *Pianos*

no piano shall be brought into the Centre except as approved by the Venue Management and no piano shall be moved except under the supervision of the Venue Management or Authorised Officer;

4.15 *Supervision of Personnel*

the Hirer shall ensure that, at all times, his agents or servants or any other person having entered the Centre pursuant to or in exercise of rights granted to the Hirer under the Terms and Conditions of Hire are properly supervised and under the direction and control of a person nominated by the Hirer for that purpose and the Hirer will advise the Venue Management or Authorised Officer of the person so nominated;

4.16 ***Vacating the Centre***

the Hirer shall directly after the last Performance of the Agreed Use remove from the Centre, all his sets, costumes, properties and equipment, together with all other goods and/or materials of any kind brought into the Centre by the Hirer or his agent or servants;

4.17 ***Failure to Remove Equipment***

in the event of the Hirer failing to remove any or all of his sets costumes properties equipment goods and/or materials from the Centre at the time of expiration of the Agreement, the Owner may at the sole risk and expense of the Hirer, remove the same. In the further event of the Owner providing storage for same, it may charge to the Hirer and the Hirer will pay to the Owner, the storage charges incurred by the Owner or if stored by the Owner itself, the normal and prevailing market cost payable in respect of such storage;

4.18 ***Fireproofing***

the Hirer shall not bring into the Centre any scenery curtains or properties to be used in connection with any Performance unless the same have been fireproofed in accordance with the prevailing Fire Code of the Northern Territory and are maintained by the Hirer in a fireproofed condition to the satisfaction of the Owner whilst the same are in the Centre;

4.19 ***Performing Right and Copyright***

the Hirer shall not infringe, breach, permit or suffer to be infringed or breached any copyright or performing right or any other protected right in connection directly or indirectly with the Agreed Use and the payment of or any royalties to the Australian Performing Rights Association or any other like body or to any person entitled to be paid royalties shall be the obligation of the Hirer and the Hirer undertakes to pay all such royalties promptly as they fall due;

4.20 ***Sound or Television Recording***

the Hirer shall not record, transmit, produce or allow the recording transmission or reproduction by television or sound broadcast or by any other means any of the Performance or part thereof unless the same shall have been previously approved by the Venue Management. When approval has been granted for a Performance to be televised, broadcast, filmed or recorded, all publicity and advertising must clearly state that such is the case. No request for such approval will be considered once tickets have been put on sale to the public;

4.21 in the event of any Performance being recorded in or broadcast from the Centre whether it be by or for radio or television, and whether it be broadcast live or taped, the cost of additional staff and/or overtime incurred and the hire of additional equipment or other extraneous direct costs will be payable to the Owner by the Hirer as well as a fee as specified in Part 12 of the Agreement;

4.22 if such recording, transmission or reproduction results in seating capacity being reduced or sight lines impeded because of technical requirements, the Hirer must present detailed information to the Venue Management to enable tickets to be sold to an accurate seating plan;

4.23 ***Programmes and Merchandise***

the Hirer shall not sell or permit to be sold any programme or other information sheet or merchandise in the Centre other than that approved by the Venue Management. All sales shall, unless otherwise Agreed by the Venue Management, be managed and conducted entirely by the

Owner, its staff or agents thereto expressly appointed and the Hirer shall bear the cost of any expense incurred in addition to paying such royalty and commission specified in Part 9 of the Agreement. The Hirer agrees to provide the Owner with two (2) complimentary copies of the Agreed programme;

4.24 *Distribution of Owner Information*

the Hirer shall permit the Owner to announce any Performance or Performances or to distribute to any persons attending the Centre any circular brochure or information sheet provided by the Owner containing details of attractions scheduled or taking place in the Centre;

4.25 *Limits of Hiring*

the Venue Management reserves the right to use any other part of the Centre for any other purpose at the same time as the Hirer is occupying or using premises as specified in the Agreement provided such usage does not unduly interfere with the Agreed Use;

4.26 *Display of Posters*

no poster or advertising material will be displayed in the Centre or surrounds thereof except on notice boards or in display cases provided for the purpose by the Owner;

4.27 *Programme Details and Variations*

the Hirer shall deliver to the Venue Management upon request, full particulars of artist and items works or events to be performed or presented in connection with the Agreed Use and will promptly inform the Venue Management of any change or variation in those particulars including particularly, but not limited to, the non-appearance or substitution of any artist and the deletion or substitution of any item or work to be performed and where such a change or variation occurs, the Hirer will undertake such further publicity at his own expense as the Venue Management may require or alternatively the Owner may undertake such publicity as determined by the Venue Management and the Hirer shall pay, to the Owner, the cost and expenses paid or payable by the Owner in undertaking such publicity;

4.28 *Agents*

the Hirer shall ensure that his agents or servants shall comply with the provisions of the Terms and Conditions of Hire at all times;

4.29 *By-laws*

the Hirer will in all respects, observe and comply with the provisions of the Northern Territory Government and Darwin City Council legislation regulations and/or By-laws as they relate to places of public entertainment and with any other By-law of the Owner in force from time to time;

4.30 *Jeopardising of Licences*

the Hirer shall not do or suffer to be done anything whereby any license or permit issued or in force in respect of the lawful administration or management of the Centre may be or become liable to be forfeited or suspended or the renewal thereof refused;

4.31 *Owner Directions*

the Hirer will forthwith comply with any requirement or direction under the Terms and Conditions of Hire made or given by the Owner which shall be at liberty to suspend or control to any extent and in any way it may deem necessary any Performance or usage which in its judgement is not in accordance with the provisions of the Terms and Conditions of Hire, but without rendering the Owner or the Venue Management or any Authorised Officer liable in damages in respect of such suspension or control;

4.32 *Advertising*

the Owner requires the Hirer to submit all advertising for any given Performance in advance of its placement for approval by the Owner;

4.33 *Logos*

the Hirer shall, in respect of advertising and programme materials, reproduce the name of the premises as detailed in Part 1 of the Agreement and the correct name of any auditorium or area within the Centre and the logo of the Centre and Box Office telephone number only in a typeface and format approved by the Venue Management; and

4.34 the Official logo, as supplied by the Owner, is to be used exclusively in association with booking information in all print material, television commercials and newspaper advertisements as specified by the Venue Management;

4.35 *Emergency Evacuation*

the Hirer agrees, when requested by the Venue Management, to insert into any official programme or to otherwise announce any emergency evacuation procedure as may be determined by the Venue Management; and

4.36 The Hirer shall comply with all directions given by any competent authority, including any member of the Police Force and the Chief Officer of the Fire Brigade and any person holding a like appointment in anyway relating to the conduct of the venue, and shall comply with all rules regulations and directions with regard to fire and safety precautions and other emergencies;

4.37 *Latecomers*

the Owner reserves the right not to admit any latecomer to any given Performance until there arises a suitable break in that Performance;

4.38 *Rehearsals*

no person shall be permitted to attend or view a rehearsal or preview Performance without the express permission of the Owner. Where such permission is granted, the Owner may engage such staff as it deems necessary in connection with the safe and proper use of the Centre under such circumstances and the Hirer shall reimburse the cost of such engagement to the Owner;

4.39 *Protection of Floors*

the Hirer shall carry out such directions as may be issued by the Venue Management for the protection of stages and floors and to cover stages and floors by suitable material if so required by the Venue Management or Authorised Officer;

4.40 *Industrial Awards*

the Hirer shall at all times, observe and comply with the provisions of all industrial agreements, awards and determinations as regards any person or persons engaged or employed in connection with the Terms and Conditions of Hire;

4.41 *Facilities Provided*

the Owner may, at its discretion, make available for the use by the Hirer, at the Hirer's cost in all respects, such facilities, equipment, additional areas and services as are required by the Hirer PROVIDED ALWAYS that the Owner shall not be responsible for the adequacy or suitability of such facilities, equipment, additional areas or services; and

4.42 Access

the Hirer, his agents or servants may at any time during a Performance, have access to all parts of the premises that are necessarily used for the Performance, but not including those parts used by the Owner's administration and control rooms other than those essential to the Performance and allocated to the Hirer for that purpose except with the permission of the Venue Management.

5 INSURANCE

It is hereby agreed ---

5.1 Increase of Risk

The Hirer, his agents or servants will not, without the written authority of the Owner, do or suffer to be done anything in the Centre whereby any policy of insurance on the Centre or its facilities or equipment may become void or voidable or whereby the rate of premium thereon may be increased and the Hirer will pay to the Owner, in advance, all amounts payable by way of costs or increased insurance premiums on any policy of insurance so affected;

5.2 Insurance

the Hirer will insure its sets, costumes, properties, equipment and all goods and/or materials of any kind brought into the Centre, and the Hirer will produce to the Venue Management proof of such insurance as required; and

5.3 Public Liability

the Hirer shall effect, and at all times whilst using the Centre under the authority or purported authority of the Terms and Conditions of Hire, keep current a Public Liability Insurance Policy for the sum of NOT LESS THAN FIVE MILLION DOLLARS (\$5,000,000.00) and shall present to the Venue Management acceptable documentary evidence of such cover. Hirer's who have public liability insurance covering their hire of the Centre may not access the Centre's public liability insurance. Hirers with no relevant cover will pay the sums as specified in Part 13 of the Agreement.

6 TICKET SALES DISTRIBUTION AND RECIEPTS

6.1 Sale and distribution of Tickets

The production and printing of tickets of admission to each and every Performance of the Agreed Use will be under the supervision of the Owner and at the Hirers cost as specified in Part 7 of the Agreement;

6.2 All ticket sales for each and every Performance of the Agreed Use will be made at the sales office of the Owner;

6.3 Retention of Receipts

the Owner shall retain in trust all the monies which may have been paid to the Owner whether by way of advance seat booking charges or otherwise until the conclusion of the Performance to which such monies relate or in the case of a season to the end of each week or part thereof and thereafter until the Hirer shall have paid to the Owner all sums payable under the provisions of the Terms and Conditions of Hire or which may be due and payable by the Hirer to the Owner an any other account. Interest earned on deposits of nett ticket sales revenue shall be retained by the Centre.

Reconciliation and disbursement of monies due shall not be available until five (5) working days after the final performance.

6.4 ***Cheques and Credit Cards***

the Hirer shall bear any loss incurred by the presentation of an invalid cheque or credit cards;

6.5 ***Booking Fee***

the Owner shall be at liberty to charge a fee as specified in Part 7 of the Agreement on all tickets disbursed on behalf of the Hirer and to retain such fee for its own use. Any such fee shall be regarded as part of the gross ticket sales for the purpose of the Terms and Conditions of Hire;

6.6 ***Supply and Ticket Information***

the Hirer shall deliver to the Venue Management as set out in Clause 4.4 of the Terms and Conditions of Hire full particulars of---

- (a) the information required to appear on the ticket face; and
- (b) the prices for which tickets are to be sold; and
- (c) all detail of concessions; and

the Owner shall thereafter cause tickets to be printed with the cost of any printing or computer event creation charges being met by the Hirer;

6.7 ***House Seats***

the Owner shall, at the sole discretion of the Venue Management, withhold from sale and distribution for any or all Performances of the Agreed Use, the Owner's House Seats as specified in Part 10 of the Agreement and such seats shall be in such part of the auditorium as the Venue Management determines; and

6.8 the Venue Management may release House Seats for sale at its discretion provided that the Owner shall not incur any liability to the Hirer whatsoever in respect of the House Seats after they have been made available for sale or distribution in accordance with the terms and Conditions of Hire.

7 ***INDEMNITIES***

The hirer hereby indemnifies and agrees to keep indemnified the Owner from and against ---

7.1 All claims, actions, demands, losses, damages, costs and expenses for or in respect of which the Owner or its agents or servants shall or may become liable in respect of or arising from any accident, loss, damage or injury to any persons or property by reason of any act, default, omission, breach of duty or breach of statutory duty on the part of the Hirer, his agents, servants, invitees, contractors or sub-contractors in that part of the Centre in respect of which this Agreement is made, whether found in negligence or otherwise;

7.2 all claims, actions, demands, losses, damages, costs and expenses for and in respect of any loss, damage or injury caused by any officer of the Owner or the Owner's staff when acting under the direction, order or control of the Hirer, his agents or servants in connection with the Agreed Use pursuant to these Terms and conditions of Hire whether founded in negligence or otherwise;

7.3 all outlays made by the Owner in the event of the Hirer not proceeding with the Agreed Use or cancelling or postponing any Performance or Performances and the indemnity shall extend, not only to costs actually incurred by the Owner at the date of cancellation or postponement, but to all outlays made by the Owner as a consequence of the Hirer's cancellation or postponement including, but not limited to, refunding of tickets and the loss of fees in respect of ticket sales; and

7.4 any other claim, action, demand, loss, damage or cost of any kind that is consequent upon the Agreed Use pursuant to the Terms and Conditions of Hire.

7.5 all claims, actions, demands, losses, damages, costs and expenses for or in respect of which the Owner or its agents or servants shall or may become liable in respect of or arising from any breach of copyright or other intellectual property, or from any defamatory material or content, or contempt of court, caused by reason of any act, default, omission, breach of duty or breach of statutory duty on the part of the Hirer, his agents, servants, invitees, contractors or sub-contractors whether found in negligence or otherwise, arising as a result of the Hire or consequent upon the Agreed Use pursuant to the Terms and Conditions of Hire.

8 FURTHER AGREEMENT

The Owner and the Hirer hereby further agree as follows that ---

8.1 Cancellation of Agreement

(a) If at any time payments pursuant to these Terms and Conditions of Hire are not paid by the Hirer to the Owner and the Owner may, by notice in writing, delivered to the Hirer at the Hire's address in this agreement, demand upon not less than two clear days notice, payment of outstanding payments due and in the event of the failure of the Hirer to make such payments within the said time limited then the Owner may forthwith terminate these Terms and Conditions whereupon the Hirer's licence to use and occupy the Centre shall forthwith cease, but without prejudice to any right or remedy of the Owner for any breach of the Hirer of these Terms and Conditions of Hire; and

(b) if at any time, in the opinion of the Owner, there has been a breach or default of any agreement contained herein and on the part of the Hirer performed or observed other than that specified in Clause 8.1(a) hereof; or

(c) there is likelihood that damage may be caused to the premises or any part of the Centre if the Hirer exercises his rights and authority granted by the Agreement; or

(d) the organisation or advertising for or the manner in which any performance is being conducted or is proposed to be conducted is, or is likely to be, of scandalous libellous obscene or objectionable character so deemed by the Owner

then the Owner may revoke or discontinue any agreement and authority hereby granted at any time by giving the Hirer at the address shown in this agreement not more than two clear days notice in writing thereof whereupon these Terms and Conditions of Hire shall be at an end but without prejudice to any right or remedy of the Owner for any breach of the Hirer and these Terms and Conditions of Hire and

(e) if the Hirer shall commit any breach of any of the Terms and Conditions of the Agreement or if for any reason not arising out of the willful or neglect act or default on the part of the Owner the Centre ceases to be available for use by the Hirer then the Owner may at its option give to the Hirer notice in writing cancelling this agreement forthwith or at the end of any period specified in such notice and upon receipt of such notice or at the end of any period specified therein as the case may be this agreement shall be absolutely cancelled but without any prejudice to any rights of Owner for damages or otherwise in respect of a breach of the Terms and Conditions of this Agreement by the Hirer;

8.2 Loss Injury or Damage

the Hirer shall repair or reinstate or pay the cost of repair and reinstatement for any loss or damage to the Centre its facilities or equipment caused by any act, omission, breach of duty or breach of statutory duty whether willful or otherwise and whether founded in negligence or otherwise by the Hirer, his agents or servants or by the Owner's Staff employed by the Hirer under the Terms and Conditions of Hire or any other person entering the Centre pursuant to or in exercise of the rights granted herein to the Hirer including a patron attending a Performance and the Hirer will forthwith repay to the Owner on demand, any costs incurred by the Owner in repairing or making good any damage so caused in the event of the Hirer failing to observe the provisions of this clause and in the

event that the nature of the damage is of the kind which in the opinion and at the sole discretion of the Venue Management has rendered the Centre or part of the Centre in an unfit state for the Agreed Use or any other concurrent or subsequent uses that the Owner may have agreed with another person or persons or any other concurrent or subsequent uses the Owner may have itself undertaken the Hirer will pay to the Owner all costs, losses, damages and expenses of any kind howsoever arising out of the postponement or cancellation of all or part of the aforesaid uses;

8.3 *Notification of Loss*

the Hirer shall notify the Owner immediately on becoming aware of any damage or loss to the Centre its facilities or equipment or of any injury to any person whomsoever in the Centre;

8.4 *Owner's Use of Premises*

the Owner shall reserve the right to use any part of the Centre during the daytime or evening on such days as the Hirer shall not be using that part of the Centre in respect of which the Agreement is made, but in a manner as shall not unduly interfere with the Agreed Use;

8.5 *Front of House Advertising*

the Owner shall reserve the right to use the front-of-house areas to advertise forthcoming attractions provided however that the Hirer may, with the consent of the Venue Management or Authorised Officer, place such advertising material in the front-of-house area or other areas of the Centre in respect of which the Agreement is made as may be necessary to effectively advertise the Agreed Use;

8.6 *Cancellation of Booking*

in the event of the Hirer being unable to present such Performance or Performances on the dates and times specified in Part 2 of the Agreement, the Hirer shall remain liable for all amounts specified in Part 11 of the Agreement unless and until he has been notified by the Owner not less than 4 weeks from commencement of the hire agreement, in writing, that the premises has been relet for the date or dates specified in Part 2 of the Agreement when the Hirer shall then be liable to pay all committed costs as at the date of cancellation;

8.7 *Strikes and Power Failures*

the Owner shall not be liable to the Hirer or his agents or servants for any loss of income or benefit or any liabilities which may be incurred either to the Owner or any other person or for damage or loss or injury caused to the Hirer or his agents or servants or to goods or equipment owned, operated or hired by the Hirer, his agents or servants resulting from ---

- (a) a strike by any employee or contractor engaged or employed by either the Owner or the Hirer or any other person or group of persons; or
- (b) any interruption or cessation in the supply of chilled water or electricity or any other type of power or energy to the Centre or failure of any equipment owned or operated by the Owner for the supply of chilled water or electricity or any other power or energy;

8.8 *Emergency Security Services*

the Hirer, his agents or servants will not hinder or obstruct in the exercise of their duties at the Centre any member of the medical or nursing profession, police force or security officer employed or authorised by the Owner or fire brigade, ambulance service, first-aid service or other emergency evacuation procedures;

8.9 the Hirer, his agents, servants, employees or contractors will observe the Centre's internal security and emergency evacuation procedures; and

- 8.10** If at any time in the opinion of the Venue Management ---
- (a) there exists an emergency in the Centre due to an actual or imminent occurrence that causes or threatens to cause loss of life or injury or distress to persons or danger to the safety of the public or destruction of or damage to property; or
 - (b) the Centre is required requisitioned or resumed for the use of a Government or Public Authority for any public purpose by reason of emergency; or
 - (c) the Centre is damaged or destroyed by Act of War or in the Course of 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; or
 - (d) the use of the Centre for the Agreed Use in respect of which the Agreement is made and authority is granted is prohibited, obstructed or hindered by reason of any industrial action or Act of God or Civil Disturbance

the Venue Management may cancel or discontinue the Agreement and will repay, to the Hirer, such sums paid by the Hirer under the provisions of the Terms and Conditions of Hire in respect of that part of the Agreed Use so affected;

8.11 ***Impossibility of Contractual Obligations due to Prescribed Events (Force Majeure)***

that in the event of the Owner or Hirer or both parties being unable to perform and discharge their contractual obligations arising out of the Terms and Conditions of Hire due to strike, civil disturbance, war or Act of God, then the parties shall be relieved of their respective obligations accruing and occurring during such time provided that the time for Performance as specified in the Agreement, shall not be extended as a result thereof except by written agreement of both parties;

8.12 ***Right of Entry***

the Venue Management or any Authorised person shall have the right to enter at any time any room or area or part of the Centre in respect of which the Agreement is made;

8.13 ***Maximum Seating***

the Hirer shall not cause the maximum seating capacity of the Centre to be exceeded;

8.14 ***No Tenancy or Assignment***

the use of the Centre or part of the Centre in respect of which the Agreement is made shall not be exclusive and the possession of the Centre will remain with the Owner and the Terms and Conditions of Hire shall not in any way create a tenancy between the Owner and the Hirer, nor shall the Hirer be entitled to assign the benefits of the Terms and Conditions of Hire or any rights given hereunder without the prior written consent of the Owner;

8.15 ***Waiver***

the provisions of the Terms and Conditions of Hire shall not be taken either at law or in equity to have been waived, discharged or released by the Owner or the Venue Management unless by its or his express written consent;

8.16 ***Dispute***

in the event of any dispute arising as to the interpretation of any part of the Terms and Conditions of Hire, the decision of the Venue Management shall be final and conclusive;

8.17 ***Law to Apply***

the Terms and Conditions of Hire will be interpreted and constructed and the rights of the parties will be determined in accordance with the law of the Northern Territory;

8.18 ***Currency***

all references to sums of money are references to sums in Australian currency and all payments to be made by the Hirer to the Owner under the Terms and Conditions of Hire will be made in Australian currency;

8.19 ***Discretion***

in any case where pursuant to the Terms and Conditions of Hire the doing or executing of any act, matter or thing by the Owner or Venue Management is dependant upon the approval or consent of it or him, such approval or consent may be given or withheld in the absolute uncontrolled discretion of the Owner or the Venue Management as the case may be unless otherwise herein provided;

8.20 ***Owner's Responsibility***

any rights and powers of the Owner under any of the provisions of the Terms and Conditions of Hire shall not be deemed to impose upon the Owner any responsibility for the selection of the work or works proposed to be performed or being performed in the Centre and any granting, withholding or refusal of any permission by the Owner shall be constructed accordingly;

8.21 ***Venue Management as Agent of the Owner***

for the purpose of the Terms and Conditions of Hire ---

(a) any action, approval, consent or direction to be taken or given by or on behalf of the Owner will be sufficiently taken or given by the Venue Management; and

(b) the Venue Management is the agent of the Owner and any document or writing purporting to be signed by the Venue Management will be presumed to have been signed by him;

8.22 ***Notice***

without prejudice to any other means of giving notice any notice given under the Terms and Conditions of Hire shall be sufficiently given ---

(a) to the Hirer if addressed to the Hirer or to any Director, Secretary, Manager, Executive Officer or organiser of the Hirer and served personally on the Hirer or that Director, Secretary, Manager, Executive Officer or organiser or if forwarded by prepaid post or facsimile to the place of business of the Hirer last known to the Venue Management; and

(b) to the Owner of the Venue Management if addressed to the office of the Venue Management and a notice sent by post or facsimile will be deemed to be given or served at the time when it ought to be delivered in the ordinary course of post or facsimile transmission;

8.23 ***Industrial Relations Service Fee***

the Hirer, in addition to changes as specified in the Agreement, may be required to pay to the Owner an Industrial Relations Service Fee on a per performance basis on the scale of rates as varied from time to time by the Executive Council of the Entertainment Industry Employers Association as specified in Part 13 of the Agreement.

9 PLANT AND ELECTRICAL INSTALLATIONS

9.1 Notwithstanding the provisions of Clause 7 of the Terms and Conditions of Hire, the Hirer shall not carry out or perform any work whatsoever affecting or otherwise interfering with the air-conditioning plant, the electric plant and/or the electrical fittings contained in the Centre; and

9.2 where any of the things referred to in the last proceeding sub-clause have been damaged and the Hirer is pursuant to Clause 7 of these Terms and Conditions responsible therefore for the purpose of Clause 7 of these Terms and Conditions of Hire shall be deemed to have failed, neglected or refused to make good and repair such damage and the Owner shall at liberty proceed accordingly; and

9.3 the Owner shall not at any time be in any way or on any ground whatsoever liable for the failure or non-working of the air-conditioning plant, the electric plant and/or the electrical fittings contained in the Centre or for the non-supply of electric power or light to the Centre.

10 NON EXCLUSIVITY

The Owner reserves the right to use any part of the Centre at any time or times as the Hirer shall not be using the same for his own rehearsals or performances and by mutual agreement in such a manner that the Owner's usage shall not interfere with any performance which the Hirer shall be giving.

11 CANCELLATION OF LICENCE

That if the Hirer shall commit any breach of any of the Terms and Conditions of the Agreement or if for any reason not arising out of the willful or negligent act or default on the part of the Owner, the Centre ceases to be available for the use by the Hirer, then the Owner may at its option give to the Hirer notice in writing cancelling the Agreement forthwith or at the end of any period specified in such notice and upon receipt of such notice. Alternatively, at the end of any period specified therein as the case may be, the Agreement shall be absolutely cancelled, but without prejudice to any rights of the Owner for damages or otherwise in respect of a breach of the Terms and Conditions of this Agreement by the Hirer.

12 BREACHES

The failure of the Owner to exercise any of his rights for any breach or breaches of the Terms and Conditions of this Agreement by the Hirer shall not operate as a waiver of the Owner's rights in the event of any subsequent breach or breaches by the Hirer.

13 CATERING

The Owner reserves the right to carry out and perform either by its servants, agents or contractors all catering in the Centre.

14 NEGLIGENCE

The Hirer will indemnify and keep indemnified the Owner from and against all actions, suits, proceedings, claims and demands which may be brought, maintained or made against the Owner --

(a) by any of the servants, agents or performers of the Hirer for any cause occasioned by or arising from his use of the Centre whether found in negligence or otherwise; and

(b) by any person or persons arising out of or occasioned by any act or omission on the part of the Hirer, his servants or agents of the Centre, whether found in negligence or otherwise; and

(c) by any person or persons arising out of loss, theft or damage to any property whether founded in negligence or otherwise brought on to the Centre by the Hirer, his servants, agents or performers.

15 SEASON EXTENSIONS

The Hirer may make such arrangements with the Venue Management for the use of the Centre for the purposes of rehearsals and other preparations for the presentation or holding of the attraction and where the Centre is used by the Hirer in accordance with such arrangements, such use shall be deemed to be an extension of the season and fees and charges shall be payable by the Hirer accordingly.

16 FURTHER CLAUSES

Further Clauses to the Terms and Conditions of Hire, if any, shall be contained in Part 13 of the Agreement.

17 NULL AND VOID

Any alteration or addition to the Agreement and/or the Terms and Conditions of Hire will render the said Agreement null and void unless such alteration or addition is initialed by both parties to the Agreement.

HIRER TERMS:DD