

# CASULA POWERHOUSE ARTS CENTRE

## 1. DEFINITION AND INTERPRETATION

### 1.1 Defined Terms

Unless the contrary intention appears the following words have the following meanings:

<b>Term:</b>	<b>Definition:</b>
<b>Bond</b>	if applicable, the amount specified in the Event Quotation payable by the Hirer to CPAC in cash, cheque or credit card and is a separate payment to the Deposit.
<b>Business Day</b>	a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney.
<b>Claim</b>	any allegation, action, demand, cause of action, suit, proceeding, and any claims made by third parties, judgment, debt, damage, loss, cost, expense or Liability, including but not limited to legal costs and expenses on an indemnity basis, howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.
<b>Deposit</b>	if applicable, the amount specified in the Event Quotation payable by the Hirer to CPAC in cash, cheque or credit card and is a separate payment to the Bond.
<b>Employees and Agents</b>	each of the employees, officers, agents, contractors, service suppliers of a Party.
<b>End Date</b>	the date specified in the Quotation (also known as End Time)
<b>Event</b>	the event or function specified in the Quotation.

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<b>Event Quotation</b>	the quote issued by CPAC for the Hirer's Event which includes the Hire Fees (the amount of the Deposit and/or Bond if applicable), and any additional fees and charges as reasonably determined by CPAC as at the date of the Event Quotation.
<b>Force Majeure Event</b>	an event or circumstance which is beyond the control and without the fault or negligence of the Party affected which prevents a Party from complying with any of its obligations under the Venue Hire Agreement, including but not limited to: acts of God (including but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods), strikes, riot, war, invasion, lockouts, terrorism, Government action, public health orders, viral events such as pandemics and epidemics and any other unforeseeable circumstances beyond the control of the Parties against which it would have been unreasonable for the affected Party to take precautions and which the affected Party cannot avoid even by using its best efforts.
<b>GST</b>	the goods and services tax imposed by legislation enacted by the Commonwealth of Australia including a tax imposed by the GST Act.
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth).</i>
<b>Hire Fees</b>	the fees and charges specified in the Event Quotation payable by the Hirer to CPAC.
<b>Liability</b>	any liability (whether actual, contingent or prospective), loss, damage, debt, cost or expense (including legal costs and expenses) of whatever nature or description.
<b>Hire Period</b>	the period between the Start Date (or earlier occupation/bump-in of the Venue) and the End Date (or earlier termination of the Venue Hire Agreement).

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<b>Hirer</b>	the person referred to in the Event Quotation who wishes to hire the Venue for the Event.
	(a) if the Hirer is a natural person, the Hirer's executors, administrators and permitted assigns; and
	(b) if the Hirer is a corporation, the Hirer's successors in title and permitted assigns;
<b>Hirer's Property</b>	all the Hirer's installations, artwork, sound, visual design, fittings, equipment, goods and any other property in the Venue for the purposes of the Event.
<b>Month</b>	a calendar month.
<b>Notice</b>	a notice, demand, consent, approval, request or other communication served, given or made under the Venue Hire Agreement.
<b>Party</b>	a party to the Venue Hire Agreement.
<b>Permitted Use</b>	the permitted use by the Hirer for the Venue being the use required for the Event.
<b>Standard Terms and Conditions</b>	these terms and conditions that form part of the Venue Hire Agreement, as amended by CPAC from time to time.
<b>Start Date</b>	the date specified in the Event Quotation (also known as Start Time).
<b>Venue</b>	the venue specified in the Event Quotation (also known as Location).
<b>Venue Hire Agreement</b>	the agreement between the Hirer and CPAC for the hire of the Venue which incorporates these Standard Terms and Conditions including the Event Quotation.

**WH&S Laws** the laws relating to work health and safety that apply to the Venue, and the use of it and includes the WH&S Regulation.

**WH&S Regulation** the *Work Health and Safety Regulation 2017* (NSW).

### 1.2 Interpretation

In the Venue Hire Agreement and these Standard Terms and Conditions the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of the Venue Hire Agreement;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words "*such as*", "*including*", "*particularly*" and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
  - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
  - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
  - (iii) a Party includes its successors and permitted assigns;
  - (iv) a document includes all amendments or supplements to that document;
  - (v) a clause, term, Party, schedule or annexure is a reference to a clause or term of, or Party, schedule or annexure to the Venue Hire Agreement;

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- (vi) the Venue Hire Agreement includes all schedules and annexures to it;
  - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
  - (viii) an agreement other than the Venue Hire Agreement includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
  - (ix) a monetary amount is in Australian dollars;
- (g) an agreement on the part of two or more persons binds them jointly and severally;
- (h) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (i) in determining the time of day, where relevant to the Venue Hire Agreement, the relevant time of day is:
- (i) for the purposes of giving or receiving Notices, the time of day where a Party receiving a Notice is located; or
  - (ii) for any other purpose under the Venue Hire Agreement, the time of day in the place where the Party required to perform an obligation is located;
- (j) no rule of construction applies to the disadvantage of a Party because that Party was responsible for the preparation of the Venue Hire Agreement or any part of it.

## 2. VENUE BOOKINGS

### 2.1 Application

An application for the use of the Venue shall be made via CPAC's website, in person, telephone, e-mail or in such other manner or form as reasonably determined by CPAC from time to time. All applications must state the precise purpose and for the hours during which the Venue is required (**Venue Hire Application**).

### 2.2 Booking Procedure

- (a) Once CPAC receives a Venue Hire Application, having regards to the information provided by the Hirer and any clarification and negotiations between the Parties, CPAC will issue the Hirer with an Event Quotation, which shall be open for acceptance by the Hirer for no longer than fourteen (14) days. If the Hirer accepts the Event Quotation, upon acceptance, a Venue Hire Agreement will come into existence and CPAC will raise a tax invoice for the Hire Fees.
- (b) Depending on the nature of the Event, the venue being hired, and any other reasonable considerations by CPAC, the Hirer may be required to pay a Deposit to secure a booking. This will be set out in the tax invoice which includes the payment options (**Tax Invoice**).
- (c) If the Hirer is required to pay a Deposit, then the Deposit is due within fourteen (14) days of the date of the Tax Invoice or such other date as may be specified in the Tax Invoice or as agreed by CPAC in writing.
- (d) If required, the Hirer shall provide CPAC with a certified copy of the Hirer's current driver's licence or passport or any other form of current photo identification, to satisfy any verification of identity requirements of CPAC (**Identification Documents**). The Identification Documents shall accompany the signed Event Quotation.

### 2.3 Pencil Bookings and Reserved Dates

- (a) Pencil bookings shall be held no longer than fourteen (14) days. If a booking is not confirmed within this period, then the date(s) shall be released for hire.
- (b) Unless otherwise agreed by CPAC in writing, bookings for the Venue will only be confirmed when the Hirer has:
  - (i) accepted the Event Quotation in writing;
  - (ii) if required by CPAC, paid the Deposit and/or Bond and has been received by CPAC within the time specified by CPAC; and
  - (iii) signed and returned these Standard Terms and Conditions,otherwise CPAC reserves the right to release such booking dates to any third party.

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### 2.4 Bond

- (a) In some instances, depending on the venue and type of event or function, CPAC may require the Hirer to pay a Bond (or the Bond will be sufficient in lieu of the Deposit). If the Event Quotation specifies that a Bond is payable by the Hirer, then the Hirer shall pay the Bond within fourteen (14) days of acceptance of the Event Quotation.
- (b) CPAC is entitled to deduct from the Bond an amount equal to any monies due but unpaid by the Hirer to CPAC under the Venue Hire Agreement.
- (c) The Bond (or so much of the Bond as is then held by CPAC) will be returned to the Hirer within thirty (30) days on the later of the following dates:
  - (i) the End Date; and
  - (ii) the date that the Hirer has complied with its Make Good obligations.

### 2.5 Amendment to Booking Date(s)

Any changes requested by the Hirer of a confirmed booking date within one (1) Month prior to the Start Date may incur an administration fee in addition to the Hire Fees, and will be pending Venue availability.

### 2.6 Changes to booking requirements

CPAC reserves the right to charge an administration fee should the Hirer require changes to its booking and hire of the Venue within seventy-two (72) hours prior to the Start Date.

### 2.7 Technical requirements

All applicable technical requirements must be received by CPAC at the time that the Hirer's booking is made. This will help CPAC cost the Event accordingly. Any final changes, amendments or adjustments must be made fourteen (14) Business Days prior to the Start Date. Any changes or requests made seventy-two (72) hours prior to the Start Date may incur additional charges. No guarantees can be made by CPAC that these changes can be met.

### 3. PAYMENT OF HIRE FEES

#### 3.1 Hire Fees

The Hirer agrees and acknowledges that:

- (a) it must pay the Hire Fees (or the balance of the Hire Fees if a Deposit has been paid) and any other amounts (including fees and charges) payable under the Venue Hire Agreement in the manner and on the date(s) as notified by CPAC to the Hirer in writing;
- (b) all amounts payable by the Hirer to CPAC are subject to change having regards to the nature of the Event, the requirements of CPAC and the Hirer, and any other circumstances that warrant a variation of any such amount; and
- (c) in the event a booking is made less than one (1) Month prior to the Start Date, CPAC shall require payment of the Hire Fees in full prior to confirmation of the booking.

#### 3.2 No demand

CPAC need not make demand for any payment required to be paid by the Hirer under the Venue Hire Agreement.

#### 3.3 No set off

The Hirer must make payments under the Venue Hire Agreement without set-off, counterclaim, withholding or deduction unless agreed by the Parties in writing.

### 4. GRANT OF LICENCE

#### 4.1 Grant

In consideration of the payment of the Hire Fees by the Hirer to CPAC, CPAC grants and the Hirer accepts an exclusive licence to use and occupy the Venue during the Hire Period subject to the reservations, covenants, conditions, stipulations and provisos contained in the Venue Hire Agreement.

#### 4.2 No property interest in Venue

The Hirer acknowledges that the granting of the Licence is personal to the Hirer and the Venue Hire Agreement does not confer upon the Hirer any estate or interest in the whole or any part of the Venue.

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### 4.3 Limited relationship

Nothing in the Venue Hire Agreement is intended to nor does it confer on the Hirer any right as a lessee under a lease or create the relationship of lessor and lessee or of partnership, of principal and agent, joint venture or any other ongoing relationship between the Parties and any such implication or inference is expressly negated.

## 5. STAFFING REQUIREMENTS

### 5.1 Charges

- (a) CPAC will provide and charge for front of house, waiters, bar staff and/or technical staff depending on the venue hired, time, and format of the proposed event or activity. If applicable or required, a number of front of house personnel will be included in the Hire Fees. This will include ushers and security as required. The number of personnel required for an event in the Building is based on the type of event and the physical spaces used within the Building. Additional staffing charges apply for front of house services when events are fully ticketed, or when event requirements exceed the normal operations of a particular venue.
- (b) The Hirer is not permitted to independently appoint ushers unless otherwise specified or approved by CPAC. All requests for alternate staffing must be indicated to CPAC before a quotation is supplied. All of the Hirer's staff must report to CPAC's front of house supervisor and must be inducted prior to an event.
- (c) The Hirer is not permitted to appoint its own security personnel, and all arrangements must be made through CPAC to arrange CPAC approved security for an event. Security staffing for liquor related or crowd control issues is a separate matter and should be discussed with CPAC prior to confirming an event.

## 6. USE OF VENUE

### 6.1 Permitted Use

The Hirer shall only access the Venue and use or permit the use of the Venue by its Employees and Agents or the public, its customers, visitors and invitees for the Permitted Use.

### 6.2 General use of Venue

- (a) Unless otherwise agreed by CPAC in writing, the Hirer shall:

- (i) not use, permit or carry on or permit to be used, exercised or carried on or in the vicinity of the Venue, any noxious, nuisance or offensive act, activity, trade, business, occupation or calling;
- (ii) not use, permit or carry on or permit to be used, exercised or carried on or in the vicinity of the Venue, any illegal or dangerous activity;
- (iii) not do, or omit to do, or permit or cause to be done or omitted any act, matter or thing on or in the vicinity of the Venue that is or may be a breach of an approval or laws or for which an approval is required but has not been obtained;
- (iv) not cause or permit any auction sale or fire sale to be held in or on the Venue without the written approval of CPAC (not to be unreasonably withheld);
- (v) not erect, display, affix or exhibit any sign, advertisement, name, notice without the prior, written approval of CPAC (not to be unreasonably withheld) and in accordance with all laws;
- (vi) not do or permit anything to be done or omit to do anything that could potentially prejudice any insurance or vitiate or render void or voidable any insurance policy;
- (vii) not mark, paint, nail, drill into, cut, string wires within, or in any way deface, penetrate or damage any walls, ceilings, partitions, floors, wood, stone, concrete (and the like) of the Venue and the Building (or any part of them) without CPAC's prior written consent;
- (viii) not use blue tack, sticky tape, masking tape (or any other form of adhesive), nail, or drill to fix or attach any item on the walls, ceilings, partitions, floors, wood, stone, concrete (and the like) of the Venue and the Building (or any part of them) without CPAC's prior written consent;
- (ix) not obstruct any window or lights in the Venue without CPAC's prior consent;
- (x) not allow the floor of the Venue to be broken, strained or damaged by overloading;

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- (xi) not use the Venue for storage or any purpose other than the Permitted Use;
- (xii) not use any method of heating, cooling or lighting the Venue other than those provided or approved by CPAC;
- (xiii) not do anything to affect the working or efficiency of CPAC's air-conditioning plant and equipment;
- (xiv) Not bring or sell food including food trucks, food stalls, external catering, drinks (alcoholic or otherwise) on premises. CPAC reserves the right to use external catering providers if Bellbird has a diminished ability to offer catering services.
- (xv) not cover any light, sky-light, window or other means of illuminating the Venue without CPAC's prior consent;
- (xvi) not without CPAC's consent use any loudspeaker or similar equipment likely to be seen or heard outside the Venue;
- (xvii) not smoke in the Venue or in the vicinity of the Venue (and ensure that its Employees and Agents and customers, visitors and invitees do not smoke in the Venue or the vicinity of the Venue);
- (xviii) comply with CPAC's requirements in relation to security of the Building and Venue;
- (xix) comply with emergency and evacuation procedures and risk management practices implemented by CPAC and must not relocate any emergency and evacuation plans CPAC has in place for the Venue; and
- (xx) allow CPAC's Employees and Agents to enter and inspect the Venue or any part of it at any time and must not obstruct them or any member of the police force, fire brigade, ambulance service or any other emergency service from entering the Venue.

### 6.3 Keeping in good repair

The Hirer must at all times keep the Venue and any part of CPAC's property in or servicing the Venue, in good repair and condition having regard to the condition of

the Venue at the earlier of the Start Date or the date the Hirer first occupied the Venue.

### 6.4 Responsibility of Venue

The Hirer is responsible for the booked Venue and is liable for any damage to the Venue, its facilities and furnishings, etc. from the Start Date (or early occupation or bump-in of the Venue) to the End Date.

### 6.5 Safe and proper use

The Hirer shall use the Venue and its facilities and its equipment in a safe, proper and efficient manner to the satisfaction of CPAC and in accordance with all applicable laws and reasonable requirements by CPAC as notified by CPAC from time to time and will immediately comply with any direction given by CPAC in connection with the safe and proper use of the Venue and its facilities and equipment and the Hirer will:

- (a) ensure that it, and all its Employees and Agents comply with and observe, all of CPAC's relevant procedures and policies in relation to work health and safety and emergency procedures. A copy of CPAC's WHS Policy can be obtained upon request. Upon commencement of the Hire Period, the Hirer will be inducted by CPAC staff for WHS and emergency procedures. The Hirer should allow at least 15 minutes hire time for this process. This is for the Hirer's safety and is compulsory in the case of an evacuation; and
- (b) leave the Venue and its facilities and equipment in a clean safe and proper condition to the satisfaction of CPAC.

### 6.6 Permits and licenses

- (a) The Hirer shall have in place all necessary permits, licences and rights required to undertake their activities at the Venue and are responsible for the payment of any taxes, levies and charges payable to any authority or third party in connection with such activities.
- (b) CPAC reserves the right to cancel the Hirer's activity should the Hirer or their Employees and Agents have not taken all reasonable steps to obtain any relevant licences, insurances or statutory requirements for the activity being undertaken.

### 6.7 WH&S Laws

If applicable, the Hirer must (at its cost), observe, perform, fulfil and comply with the requirements of all WH&S Laws.

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### 6.8 Alterations

The Hirer shall not make any alterations or additions to the structure or the fittings or decorations or furnishing or facilities or equipment of CPAC.

### 6.9 Additions

- (a) The Hirer shall not provide any additional decoration or furnishings to the Venue including but not limited to stage property, electrical installation, appliance or any other decorative materials or articles of any kind unless it has obtained the prior written consent of CPAC. The Hirer shall immediately after the Event (or if agreed immediately after a series of events or performances or functions) remove all such additional decoration or furnishings at its cost.
- (b) The use of confetti, streamers, smoke and haze machines, hay bales or similar articles of decoration is prohibited unless expressly permitted in writing by CPAC.
- (c) All additions must meet the *Safety Guidelines for the Entertainment Industry 2001* (as amended from time to time).

### 6.10 Capacity

The Hirer shall comply at all times with CPAC's building and health regulations and policies and not permit audience members, participants and the like to exceed the certified occupancy or seating capacities of the various venues in the Building. The following condition apply:

- (a) The Hirer will be required to determine the capacity appropriate to their requirements in consultation with venue sales and booking staff;
- (b) CPAC reserves the right to:
  - (i) refuse a booking on the grounds of health and safety; and
  - (ii) restrict entry to the Venue once the legal occupancy capacity has been reached and to put in place at the cost of the Hirer any systems required to enforce legal occupancy capacities;
- (c) Unless otherwise agreed by CPAC in writing, crowd control personnel shall be engaged by the Hirer, if in the opinion of CPAC, it is deemed necessary. The cost of engagement of crowd control personnel will be borne by the Hirer.

### 6.11 Temporary seating

Any temporary seating installed in relation to the Permitted Use must not be located in aisles or other paths of travel to a designated exit. If it is intended that the audience be seated on the floor, aisles and crossovers are to be clearly defined and maintained as paths of travel.

### 6.12 Sound levels

CPAC reserves the right to exercise control of sound levels within the Building and the Venue. Hirers shall comply with the reasonable determinations of CPAC in relation to sound level limits within the Venue. CPAC reserves the right to stop work in cases of excessive sound level or vibration or where it believes any personal safety or other venue activities are compromised.

### 6.13 Obstructions

The Hirer shall not obstruct any stair, exit or path of travel within the Building and Venue. This includes all open spaces within the Building i.e. foyers, public spaces, back of house passageways.

### 6.14 Displays

The Hirer must abide by CPAC's conditions and policies when designing and installing displays or exhibits in any part of the Building or Venue. CPAC reserves the right to refuse installation or demand removal of any exhibit/installation it deems unsafe or in breach of any terms and conditions.

### 6.15 Rigging/Suspension

The Hirer shall not suspend or permit or allow to be suspended from any height within the Building or Venue any item until the item and the manner of suspension has been previously approved in writing by CPAC, with or without conditions.

### 6.16 Electrical stage equipment

Only persons approved by CPAC shall be permitted to operate the electrical services including stage and other lighting and sound amplification equipment, it being the responsibility of the Hirer to apply for the services of an operator approved by CPAC. All electrical equipment to be used must conform with and be tagged and tested in accordance with the relevant Australian Standard.

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### 6.17 Liquor and service of alcohol

In accordance with its obligations under the *Liquor Act 2007* (NSW) (as amended from time to time), CPAC must provide RSA qualified staff to serve alcohol, staff and management of Casula Powerhouse Arts Centre reserve the right under the Responsible Service of Alcohol Legislation to refuse service of alcoholic beverages if in their opinion the service would contravene their obligations under *Liquor Act 2007* (NSW). No alcoholic beverages are to be brought onto the premises at any time for any event. Such staff member will be included in the Hire Fees. Depending on the size of the Event, the number of staff allocated may vary.

### 6.18 Dangerous goods

- (a) The Hirer shall not bring on to the Building and Venue any flammable, volatile, explosive or dangerous substances, including pyrotechnics and chemicals, without the prior written consent of CPAC.
- (b) Hirers engaged in the following must receive written consent from CPAC prior to undertaking activity in the Venue: use of naked flame; flammable substances; hot work; pyrotechnics; strobe lighting; lasers; helium balloons; weapons; smoke, haze or snow machines. Consent will not be given for any activity requiring the discharge of ammunition from a firearm, the use of any material or thing giving off a level or heat or toxicity that poses a threat of harm, the use of any sharp implement or weapon that poses a threat of harm or the screening of nitrate film.

### 6.19 Subletting

No portion of the Building or Venue shall be sub-let or any tenancy transferred or assigned without the prior written consent of CPAC.

## 7. COPYRIGHT, CAMERAS AND FILMING

### 7.1 Performing Rights Copyright and Moral rights

The Hirer shall not infringe or breach or 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 Permitted Use and the Hirer shall produce evidence of the necessary authorities / consents from the copyright owner and the 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 other works vests in another party or another part was the author of those works. Further, the payment of all or any royalties to the Australasian Performing Rights Association or any other like bodies or to any person entitled to be paid royalties shall be the obligation of the Hirer and the Hirer undertakes to pay such royalties promptly as they fall due.

### 7.2 Cameras and filming

- (a) The Hirer shall not (and ensure that its Employees and Agents shall not) film, transmit or produce or permit or allow the 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 in writing by CPAC. All written applications for filming must be submitted to CPAC and obtain Director approval. A small administration fee may apply to process the application, but no filming fee will be charged. If the Hirer obtains such approvals, the Hirer must include in any photography, television or broadcast such material and information that may be required by CPAC.
- (b) CPAC reserves the right to take photographs, recordings and footage of the Event for Council purposes (including promotional, marketing, archival purposes and annual reports).

## 8. PROHIBITED ACTIVITIES

### 8.1 Smoking

Smoking is not permitted within the Venue or any part of the Building (including external areas). The Hirer must not bring into or use in, or permit to be brought in, the Venue or any part of the Building any flame (including candles), explosive, fuel, flammable liquid or substances and helium balloons.

### 8.2 Food and Drink

- (a) No food, hot drinks or alcohol is allowed in the Theatre and backstage. Food is allowed in the Green Room and Dressing Rooms however CPAC reserve the right to charge additional cleaning fees for these spaces if food has been consumed in the aforementioned premises.
- (b) No food including food trucks, food stalls, external catering, drinks alcoholic or otherwise can be sold on premises. CPAC reserves the right to use external catering providers if Bellbird has a diminished ability to offer catering services.

### 8.3 Illegal Substances

It is prohibited for any person to use, sell, purchase or be under the influence of any illegal substance within the Building (including external areas). If persons are taking prescription medication that may affect their safety or the safety of others, they should refrain from undertaking any activities at CPAC.

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### 9. CONDITIONS OF ENTRY

#### 9.1 General conditions and directions

- (a) The Hirer shall abide by CPAC's general conditions of entry and refusal of entry which may be displayed at each point of entry to the Building or in any other location reasonably determined by CPAC.
- (b) The Hirer shall in all respects observe and comply with any and all by-laws of CPAC in force at the time of their use of the Venue, equipment or facilities and must follow any instruction given by CPAC.

#### 9.2 Removal

- (a) CPAC has the right to request the removal from the Venue and the Building any person behaving in a disorderly manner. CPAC may request the Hirer to cease activity if disorderly and unacceptable conduct occurs. CPAC shall use its discretion on all occasions as to the running of the activities within the Venue.
- (b) The Hirer must not do or omit to do anything which is of a nuisance or annoyance to CPAC or other users of the Building or which in the reasonable opinion of CPAC is dangerous, disorderly, riotous, noxious, offensive, illegal, immoral, or objectionable. Any illegal activities will be reported immediately to the relevant authority.

#### 9.3 Supervision

- (a) The Hirer is responsible for ensuring that at all times their Employees and Agents are properly supervised and under the control of a representative of the Hirer. Any such person(s) shall observe and comply with all instructions given by CPAC.
- (b) The Hirer must provide CPAC with the name and contact details of the Hirer's authorised representative if the Hirer is not present for the duration of the Hire Period.
- (c) The Hirer shall at all times observe and comply with the provisions of all industrial agreements, awards and determinations as regards to any person or persons engaged or employed in connection with the Hirer's Permitted Use.
- (d) The Hirer is responsible for providing adequate duty of care and supervision for all person(s) under the age of 18 brought onto the Building and Venue as a result of the Hirer's activities undertaken in the Venue.

- (e) CPAC reserves the right to specify a minimum number of staff to be engaged or present during any activity. Any Costs incurred for staff provided by CPAC at the request of the Hirer or as considered necessary by CPAC will be borne by the Hirer at the applicable rates as indicated in CPAC's then schedule of fees and charges.

### 10. CANCELLATION AND RESCHEDULING

#### 10.1 No responsibility

CPAC is not responsible for the interruption or cancellation of bookings due to circumstances beyond its reasonable control (including any Force Majeure Event). CPAC will not be liable for any costs related whatsoever to the cancellation of a booking. CPAC reserves the right to withhold hiring of the Venue if necessary or due to circumstances beyond its reasonable control (including any Force Majeure Event).

#### 10.2 Cancellation by Hirer for convenience

- (a) If the Hirer wishes to cancel a confirmed booking, CPAC must be notified in writing (**Cancellation Notice**). If a Cancellation Notice is received by CPAC:
  - (i) less than thirty (30) days prior to the Start Date, CPAC shall retain the Deposit and/or Bond as a cancellation fee; or
  - (ii) less than seven (7) days prior to Start Date, CPAC shall retain the Hire Fees in full.
- (b) In addition to the forfeited amounts under this clause, the Hirer shall also pay CPAC the reasonable costs (including but not limited to legal and administrative costs) for any work carried out under the Venue Hire Agreement by or on behalf Hirer up to and including the date of the Cancellation Notice. The Hirer agrees and acknowledges that CPAC will not otherwise be liable for, and releases and indemnifies CPAC from any Claim and Liability which CPAC incurs or is liable for in connection with the cancellation of the Event. This clause will not merge on completion.

#### 10.3 Cancellation by CPAC due to Hirer's default

- (a) Despite any other provision in the Venue Hire Agreement, CPAC may cancel the Event by Notice in writing if:
  - (i) the Hirer fails to perform or comply with any material term or observe any of the covenants, conditions or agreements contained in or implied by the Venue Hire Agreement; or

## VENUE HIRE - STANDARD TERMS AND CONDITIONS

(ii) the Hirer repudiates its obligations under the Venue Agreement.

(b) If CPAC cancels the Event under this clause the Hirer shall pay on demand CPAC's reasonable costs (including but not limited to legal and administrative costs) which are incurred in connection with any default by the Hirer under the Venue Hire Agreement including but not limited to the exercise or attempted exercise by CPAC of any right, power, privilege, authority or remedy against the Hirer, to enforce the Hirer's obligations under the Venue Hire Agreement, or to terminate the Venue Hire Agreement for the Hirer's default. CPAC will not otherwise be liable to pay the Hirer any damages, costs or expenses as a result of the cancellation of the Event.

### 10.4 Force Majeure Event

If a Force Majeure Event affects a Party's performance of its material obligation under the Venue Hire Agreement, and such circumstance warrants the cancellation of the Event, either Party may by Notice in writing, cancel the Event (and as such, the Venue Hire Agreement shall be terminated on the date of cancellation). If the Event is cancelled under this clause:

- (a) each Party must take all steps necessary to minimise the loss suffered by that Party as a result of the cancellation;
- (b) CPAC shall return all monies paid by the Hirer under the Venue Hire Agreement within a reasonable time (minimum period of thirty (30) days); and
- (c) the Parties are otherwise released from their obligations under the Venue Hire Agreement, and will not be liable to the other for any compensation relating to the loss of profit, revenue, goodwill or business opportunities, damage to reputation or for any indirect or consequential loss.

### 10.5 Rescheduling

Despite any other provision in the Venue Hire Agreement, the Parties may negotiate in writing to reschedule the Event, subject to the Parties entering into a new agreement or varying the terms of the Venue Hire Agreement.

## 11. GST

### 11.1 Definitions

- (a) In this clause the expressions "consideration", "GST", "input tax credit", "supply", and "tax invoice" have the meanings given to those expressions in the GST Act.
- (b) "**Recipient**" in relation to a supply, means an entity to which the supply was made under the Venue Agreement.
- (c) "**Supplier**" means the entity which makes a supply to the Recipient under the Venue Hire Agreement.

### 11.2 GST Consideration

- (a) If the Supplier is liable to pay GST on any supply made under or in connection with the Venue Hire Agreement, the Supplier will increase the consideration otherwise payable by the Recipient, by an amount equal to the GST paid or payable by the Supplier, less any cost savings to the Supplier as a result of the removal of any taxes due to the introduction of the GST Act.
- (b) Each Party agrees to do all things, including providing tax invoices and other documentation that may be necessary or desirable to enable or assist the other Party to claim any input tax credit, set-off, rebate or refund in relation to any amount of GST paid or payable in respect of any supply under the Venue Hire Agreement.
- (c) If any consideration payable by the Recipient to the Supplier under the Venue Hire Agreement constitutes a reimbursement of any amount, cost or expense incurred by the Supplier on behalf of the Recipient, then such consideration exclude any input tax credit to which the Supplier is entitled in respect of that amount, cost or expense.
- (d) Except as otherwise provided in the Venue Agreement, all consideration or payments to be made by the Recipient under the Venue Hire Agreement are calculated without regard to GST.

## VENUE HIRE - STANDARD TERMS AND CONDITIONS

### 12. RISK

#### 12.1 Use of Venue

The Hirer uses the Venue solely at the Hirer's own risk, except to the extent that risk is caused or contributed to by any negligent or wilful act of CPAC or that of its Employees and Agents.

#### 12.2 Suitability of Venue

CPAC gives no warranty and makes no representation to the Hirer that the Venue is or will remain suitable for the Hirer's purpose.

### 13. INSURANCES

#### 13.1 Application

This clause 13.2 shall apply only if CPAC requires the Hirer to have specific insurance in place having regards to the type of event or function.

#### 13.2 Public Liability Insurance

The Hirer shall keep current in the name of the Hirer:

- (a) a public liability insurance policy for not less than \$5 million or for other amount as CPAC from time to time reasonably requires; and
- (b) other insurances which are required by law or by which a prudent Hirer would take it or is required to take out having regards to the nature of the Hirer's business (e.g. professional indemnity insurance)

#### 13.3 Workers compensation

If applicable, the Hirer must comply with all statutory requirements in relation to workers compensation.

#### 13.4 Hirer's Property

The Hirer is responsible to ensure its sets, costumes, properties and equipment and all goods and materials of any kind brought into the Building and Venue (including the Hirer's Property) in connection with the Permitted Use are adequately insured against damage or loss and releases CPAC from any such Claim.

#### 13.5 Reputable insurer

If required by CPAC, all insurances to be effected and maintained by the Hirer under the Venue Hire Agreement must be effected with a reputable insurer represented in Australia and must be on an occurrence and not a claims made basis.

#### 13.6 Production of policies

The Hirer shall promptly provide to CPAC, as and when required:

- (i) any insurance policy which the Hirer is required to take out under the Venue Hire Agreement; and
- (ii) public liability insurance for all external parties and providers commissioned by the Hirer for the Event.

#### 13.7 Conduct voiding insurances

The Hirer must not do or omit anything which would make any insurance taken out by CPAC or the Hirer void or voidable or may increase the premium payable on any insurance taken out by CPAC.

#### 13.8 Increased premiums

If the Hirer's acts or omissions cause any premium for insurances effected by CPAC to increase, the Hirer shall pay the amount of that increased premium to CPAC within ten (10) Business Days of demand.

#### 13.9 Observance

The Hirer shall at all times observe and comply with the provisions of all industrial agreements, awards and other determinations in relation to any person, contractors or other third parties engaged or employed in connection with any activity in the Venue. CPAC reserves the right to view upon request certificates of public liability and workers compensation insurance from any person, contractor or other third party engaged by the Hirer.

### 14. RELEASE AND INDEMNITY

#### 14.1 Hirer's release of CPAC

To the extent permitted by law, the Hirer releases CPAC from any Claim, action, damage, loss, Liability, cost or expense which CPAC incurs or is liable for in connection with:

## VENUE HIRE - STANDARD TERMS AND CONDITIONS

- (a) any damage, loss, injury or death;
- (b) the state of repair or condition of the Venue; or
- (c) any services provided to the Venue,

unless caused or contributed to (to the extent of such contribution) by the act or negligence of CPAC or the act or negligence of CPAC's Employees and Agents.

### 14.2 Hirer's indemnity

The Hirer indemnifies (and shall keep indemnified) CPAC against any Claim, action, damage, loss, Liability, cost or expense which CPAC incurs or is liable for in connection with:

- (a) any damage, loss, injury or death, caused or contributed to by the Hirer or the Hirer's Employees and Agents;
- (b) any default by the Hirer under the Venue Hire Agreement including, if CPAC terminates the Venue Hire Agreement, the loss to CPAC of the benefit of the Hirer performing its obligations under the Venue Hire Agreement from the date of termination until the End Date; or
- (c) the use of the Venue by the Hirer or the Hirer's Employees and Agents or the Hirer's exercise of its rights under the Venue Hire Agreement,

unless caused or contributed to (to the extent of such contribution) by the act or negligence of CPAC or that of CPAC's Employees and Agents.

### 14.3 Continuing indemnities

Each indemnity of the Hirer contained in the Venue Hire Agreement is:

- (a) a continuing obligation of the Hirer and remains in full force and effect after the termination of the Venue Hire Agreement; and
- (b) a separate and independent obligation of the Hirer.

## 15. MAKE GOOD OBLIGATIONS

### 15.1 Make Good

- (a) Unless otherwise notified by CPAC to the Hirer in writing, the Hirer must (and ensure that its Employees and Agents), at the End Date or earlier termination of the Venue Hire Agreement:
  - (i) yield up and return the Venue to the condition it was in at the date the Hirer first obtained access to the Venue (fair, wear and tear excepted);
  - (ii) leave the Venue in a clean and tidy condition and remove all rubbish, waste and materials brought onto or left in or about the Venue and the Building by or on behalf of the Hirer;
  - (iii) reinstate the structure of any part of the Venue which has been penetrated by or on behalf of the Hirer;
  - (iv) make good any part of the Venue structure in which holes have been made by or on behalf of the Hirer;
  - (v) ensure that all cables, wires, ducting and pipes installed by or on behalf of the Hirer are removed from the Venue and terminated at the source;
  - (vi) remove the Hirer's Property or other property belonging to the Hirer and its Employees and Agents from the Venue; and
  - (vii) immediately make good all damage caused to the Venue by the Hirer in removing the Hirer's Property (or other property belonging to the Hirer or the Hirer's Employees and Agents) or whether caused in the exercise of the rights granted by the Venue Hire Agreement or otherwise, to the satisfaction of CPAC,

#### (Make Good).

- (b) In the event of default of the Hirer's obligations under this clause:
  - (i) CPAC may Make Good at the cost of and as agent for the Hirer and recover from the Hirer the cost to CPAC of doing so as a liquidated debt payable on demand (and such amount may be deducted from the Bond, and any such

## VENUE HIRE - STANDARD TERMS AND CONDITIONS

deficiency from the Bond will continue to be a liquidated debt due to CPAC).

- (ii) If the Hirer does not remove the Hirer's Property, CPAC may keep, remove, sell or otherwise dispose of the Hirer's Property at the Hirer's risk and cost and treat any of the Hirer's Property as if they were CPAC's property and deal with them in any way (including by sale) without being liable to account to the Hirer. The Hirer agrees that whatever CPAC does or purports to do in good faith under this clause will be deemed to be done with full authority of, as agent for and at the risk of the Hirer.

- (c) The Hirer indemnifies CPAC in relation to the removal and storage of the Hirer's Property and in relation to Claims by any Person of an interest in the Hirer's Property.

### 15.2 Costs of CPAC remedying Hirer's defaults

After giving the Hirer reasonable notice, CPAC may at the Hirer's cost do anything which the Hirer should have done under the Venue Hire Agreement but which it has not done or which CPAC reasonably considers it has not done properly (such costs may be deducted from the Bond).

## 16. NOTICES

### 16.1 Service and Notices

A Notice under the Venue Hire Agreement must be:

- (a) in writing, in English and signed by a Person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post or email to the recipient's address specified in the Event Quotation, as varied by Notice given by the recipient to the sender.

### 16.2 Effective on receipt

A Notice given in accordance with clause 16.1 takes effect when taken to be received (or a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery; or

- (b) if sent by prepaid post, on the second Business Day after the date of posting; or
- (c) if sent by email, at the time the email was sent unless the sender receives an automated message that the email has not been delivered,

but if the delivery, receipt or transmission is not a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Date.

### 16.3 Change of address

A Party may change its Address for Service or email address by giving Notice of that change to the other Party.

## 17. SALE OF MERCHANDISE

- (a) Merchandise being sold by the Hirer in conjunction with the Event must be arranged by the Hirer and will attract a commission of 20% (incl. GST) of all takings if the merchandise stall requires CPAC staffing. If the Hirer supplies its own staff for merchandise sales, a commission of 10% (incl. GST) of all takings shall apply.
- (b) The Hirer shall bear the cost of any expenses incurred in the sale of merchandise.
- (c) CPAC are not responsible in any way for the quality of any merchandise sold including whether such goods are of merchantable quality or fit for its intended purpose. The Hirer releases and indemnifies CPAC for any Liability or loss occasioned by the sale of the merchandise including but not limited defective products, loss of or damage to property, personal injury and death.

## 18. MARKETING AND PROMOTION

### 18.1 General

Commencement of any advertising or any sale of tickets for the Event is not permitted until contractual and ticketing agreements are complete and deposits received. The Hirer must comply with CPAC's requirements prior to undertaking any marketing or promotional activity.

## VENUE HIRE - STANDARD TERMS AND CONDITIONS

### 18.2 Approval of Materials

Any promotional material which is proposed to be provided for the Event must be approved by CPAC prior to production. CPAC must approve all advertising material prior to publication, issue or promotion. Arrangements to display promotional material must be in writing and agreed to by CPAC prior to the Start Date.

### 18.3 Display of Promotional Material

- (a) No signage or display material is to be nailed, screwed, stapled or adhered to any surface front or back of house in the Venue or Building.
- (b) Arrangements to display promotional material for or on behalf of the Hirer must be agreed to by CPAC prior to the Start Date.
- (c) Any free standing signage or promotional material distributed at the Venue or Building by or on behalf of the Hirer must be approved for content and distribution and placement by CPAC. These materials must be kept to a minimum.

### 18.4 Logos

If, at the request of the Hirer, CPAC allows for the use of its logo and branding for the purposes of the Event:

- (a) the Hirer shall in respect of advertising and programme materials comply with all of CPAC's licensing conditions; and
- (b) the use of CPAC's logo, website and contact details must be reproduced and used only in a type face and format approved by CPAC.

### 18.5 Marketing and Promotion Costs

Should the Parties agree that CPAC shall arrange marketing and promotion on the Hirer's behalf, the Hirer shall pay CPAC the sum agreed upon.

### 18.6 Distribution

- (a) CPAC reserves the right to display its own advertising material at any time. The Hirer shall permit CPAC to distribute to any persons attending the Venue or Building any circular, brochure or information sheet provided by CPAC.

- (b) CPAC shall reserve the right to use the front-of-house areas and other areas to advertise forthcoming events.

## 19. THEATRE CONDITIONS

### 19.1 Application of this clause

Unless otherwise notified by CPAC to the Hirer in writing, this clause shall apply only to the hire of the Theatre.

### 19.2 Ticket Sales Box Office

- (a) All theatre performances and any activities within CPAC which requires patron ticketing must be ticketed by the Casula Powerhouse Centre Box Office. A small transaction fee per ticket will apply.
- (b) Patrons of the Hirer's Event will be able to book tickets online, via telephone or in person. To ensure adequate selling time, all box office and ticketing information must be provided with all necessary booking information with the signed Venue Hire Agreement.

### 19.3 Deductions

CPAC will retain in trust all or any part of the monies which may have been paid to the Casula Powerhouse Centre Box Office whether by way of advance seat booking charges or otherwise until 10 Business Days past the conclusion of the Event to which such monies relate, until the Hirer has paid to CPAC all sums which may be due and payable by the Hirer on any other account. CPAC reserves the right to apply such monies as follows:

- (a) settlement of any outstanding payments by the Hirer to CPAC; and/or
- (b) in refunding collected monies to ticket holders; and/or
- (c) in payment to CPAC in compensation for deficiency or loss or damage arising in connection with the Hirer's Permitted Use of the Venue; and/or
- (d) for any losses in ticket revenue due to fraud or non-payment by a purchaser.

### 19.4 Theatre sound and stage lighting

The Technical Producer and/or Assistant Technical Producer must be present at all times when the Theatre sound and stage lighting equipment is being used. The Hirer

## VENUE HIRE - STANDARD TERMS AND CONDITIONS

is not permitted to access the Theatre if the Technical Producer/Assistant Technical Producer is not on site. All technical and front of house staff are required by law to have a half an hour break every five (5) hours. Event scheduling in the Theatre must take these breaks into consideration, during which time such venue must be cleared of all staff and public.

### 20. MISCELLANEOUS

#### 20.1 Force Majeure Event

Neither Party will be liable for any failure to carry out any provision of the Venue Hire Agreement if the failure was caused by a Force Majeure Event. The Parties must do all things reasonably necessary to mitigate the effect of the Force Majeure Event on the performance of its obligations under the Venue Hire Agreement.

#### 20.2 Disputes

- (a) Before resorting to external dispute resolution mechanisms, the Parties shall seek to resolve any dispute in relation to the Venue Hire Agreement by referring the matter to the respective directors or manager of the Parties or their nominees.
- (b) If the Parties cannot resolve the dispute within thirty (30) days, either Party may refer the dispute to mediation by the Australian Commercial Dispute Centre (**ACDC**) for resolution in accordance with the Guidelines for Commercial Mediation of the ACDC.
- (c) Nothing in this clause prevents a Party from seeking interlocutory relief from any Court of competent jurisdiction.

#### 20.3 Variations

- (a) Any variation to the terms of the Venue Hire Agreement will not be effective unless evidenced in an agreement executed by both Parties.
- (b) The Hirer acknowledges and agrees that any variation of the Venue Hire Agreement is subject to legal, commercial and probity review.
- (c) These Standard Terms and Conditions is subject to change without Notice to the Hirer.

#### 20.4 No implied terms

No terms are implied in the Venue Hire Agreement or arise between the Parties by way of collateral or other agreement by reason of any promise, representation, warranty or undertaking by or on behalf of any Party to any other party or anyone on behalf of any other Party on or prior to the execution of the Venue Hire Agreement. The Hirer warrants that it has not been induced to enter the Venue Hire Agreement by any express or implied statement, warranty or representation.

#### 20.5 Prior breaches

Expiry, termination or rescission of the Venue Hire Agreement or cancellation of the Event does not affect any right in connection with a breach of the Venue Hire Agreement before then.

#### 20.6 Continuing effect

Each representation, covenant and obligation under the Venue Hire Agreement continues in full force and effect until such representation, obligation or covenant is satisfied or completed.

#### 20.7 Hirer contact

The Hirer shall ensure that CPAC has the postal and home address, current e-mail address and telephone number of a 24 hour contact for the Hirer (or its nominated representative).

#### 20.8 Waiver

- (a) A single or partial exercise or waiver of a right relating to the Venue Hire Agreement does not prevent any other exercise of that right or the exercise of any other right.
- (b) No failure or delay by either Party to exercise any right or remedy under the Venue Hire Agreement may be construed or operate as a waiver or be evidence of delay or acquiescence in equity or at law in respect of such right or remedy.
- (c) A waiver or consent by a Party of any default or breach of any term of the Venue Hire Agreement does not constitute a waiver of succeeding defaults or breaches of the same or any other term.

## VENUE HIRE - STANDARD TERMS AND CONDITIONS

### 20.9 Further assurance

Each Party must promptly execute all documents and do all things that the other Party from time to time reasonably requires of it to effect, perfect or complete the provisions of the Venue Hire Agreement.

### 20.10 Severability

If any term of the Venue Hire Agreement, or its application to any Party, person or circumstance is or becomes invalid, void, voidable or otherwise unenforceable for any reason, then:

- (a) that term or its application to such Party, person or circumstance is severed from the Venue Hire Agreement; and
- (b) the remainder of the Venue Hire Agreement excluding the severed part remains in force and any term which includes a severed part applies to such Party, person or circumstance without reliance on the part severed.

### 20.11 Cumulative rights

Subject to any express provision in the Venue Hire Agreement to the contrary, the rights of a Party under the Venue Hire Agreement are cumulative and are in addition to any other rights of that Party.

### 20.12 Approvals and consents

Subject to any express provision in the Venue Hire Agreement to the contrary, a Party may give or withhold any approval or consent to be given under the Venue Hire Agreement at its absolute discretion and subject to conditions or unconditionally.

### 20.13 Assignment

Neither the Venue Hire Agreement nor any of the benefits or obligations herein may be assigned, subcontracted or otherwise dealt with by the Hirer without CPAC's written consent.

### 20.14 Scanned Signatures

The Parties agree that scanned copies of original signatures on the copy of the Venue Hire Agreement will be accepted as evidence of entry into this Agreement by the relevant Party.

### 20.15 Governing law and jurisdiction

- (a) The Venue Hire Agreement is governed by and is to be construed in accordance with the laws in force in New South Wales.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

### 20.16 Public Health Orders and Restrictions

All parties agree to follow NSW Health, Federal and NSW Government Public Health Orders and Restrictions when necessary in relation to Travel, Social Distancing, Venue Capacity or any other variables that may be presented. Government Health Orders are subject to change, any new restrictions or parameters will be advised with as much notice as possible

# VENUE HIRE - STANDARD TERMS AND CONDITIONS

## ACCEPTANCE OF TERMS AND CONDITIONS

I have read and understood the Terms and Conditions outlined for the hire of the Venue. I understand that I must comply with the abovementioned requirements in this document as the Hirer and that I am otherwise authorised to accept these Terms and Conditions so as to bind the Hirer to it.

Hirer's Name: .....

Hirer's Business Name: .....

Hirer's Address: .....

.....

ABN: .....

Hirer's Contact Number: .....

Hirer's E-mail Address: .....

Venue/Location/Space/s Hired: .....

.....

Hirers Signature: .....

Date: .....

### Credit card details for Bond / Deposit

Master Card/ Visa: .....

Card Number: .....

Expiry: .....

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### Office Use Only

- Insurance required. Insert type and minimum amount .....
- Deposit required. Insert amount.....
- Bond required. Insert amount.....