

# Waimakariri District Council

## Terms and Conditions of Hire

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This document outlines the terms and conditions of hire for the Rangiora Town Hall.

### The event and hire of the venue

#### Event Description

By signing the Venue Hire Agreement the Hirer warrants and agrees that the Event is accurately described.

#### Hire of Venue

The Council agrees to allow the Hirer to use the Venue for the Event during the Hire Period in accordance with the terms of this Agreement.

#### Performance Standard

The Hirer warrants and agrees that the Venue will not be used for any performance or activity that is of an objectionable nature, is in breach of reasonable standards of public decency or is likely to create a nuisance (also see *Use and Care of the Venue*). If there is any likelihood of objectionable content of any kind, in the Event, then the Hirer must disclose this to the Council prior to signing the Agreement or as soon as practicable after becoming aware of this and ensure that this is clear in all marketing and promotional material.

### Booking confirmation and policy

#### Confirmation

No booking for hire of the Venue is confirmed until both the Hirer and the Council have signed the Venue Hire Agreement and the Hirer has paid the Confirmation Fee. A booking may be subject to challenge by other prospective hirers, until it has been confirmed.

#### Venue Booking Policy

Where a Hirer fails to confirm a booking, in accordance with the *Confirmation Fee* paragraph below, and another person wishes to hire the Venue for the Hire Period or any part thereof, then the standard booking policy for the Venue will apply.

Where there is no standard booking policy for the Venue the current Waimakariri District Council Venue booking policy will apply.

#### Confirmation Fee

Subject to the *Confirmation* paragraph above, the Confirmation Fee is payable by the Hirer on the Payment Date detailed in the specific terms or where no Payment Date is specified, then 10 working days following signing of the Venue Hire Agreement. The Confirmation Fee is non-refundable.

### Venue hire fee

#### Venue Hire Only

The Venue Hire Fee covers hire of the Venue only. Any Services provided by the Venue Operation will be included in the Services Fee, to be paid in addition to the Venue Hire Fee.

## **Payment**

The Hirer will pay the Council the Venue Hire Fee for the hire of the Venue.

## **Balance**

The balance of the Venue Hire Fee is to be paid by the Hirer in accordance with the Payment Schedule, or where there is no Payment Schedule or payment dates are not specified, the Hirer will pay the balance of the Venue Hire Fee 10 days prior to commencement of the Hire Period.

## **Services and service fee**

### **Services**

The Council will provide the Hirer with the Services in accordance with the provisions of this Agreement.

### **Services Fee**

The Hirer will pay the Council the Services Fee for provision of the Services.

### **Payment**

The Hirer will pay the Services Fee in accordance with the Payment Schedule. As soon as practicable after the End Date for the Hire Period, the Council will provide the Hirer with a tax invoice for the actual Services Fee.

## **Bond**

### **Bond Payment**

The Council may require a Bond to be paid to ensure the due and proper performance by the Hirer of its obligations under this Agreement. This Bond is in addition to any other fees or charges payable under this Agreement. The Hirer agrees to pay the Council a Bond of an amount and on the date specified (if any) in the Venue Hire Agreement.

### **Use of Bond Monies**

The Bond will be held in trust by the Council and should the Hirer breach or fail to properly perform the Hirer's obligations under this Agreement, the Bond will be forfeited and the Council may use the Bond to carry out the Hirer's obligations and deduct from the Bond any moneys payable to the Council under the Venue Hire Agreement.

### **Return of Bond Moneys**

Where the Hirer has properly complied with all its obligations under the Venue Hire Agreement then within a reasonable time following the conclusion of the Event and the Hire Period, the Council will refund the Bond moneys to the Hirer.

## **Other charges**

### **Additional Charges**

In addition to the Venue Hire Fee and the Services Fee, the Hirer will be charged for any:

- Damage to the Venue or theft of any of the Council's property from the Venue during the Hire Period caused by the Hirer or arising from the Hirer's lack of care or any other breach of these Terms and Conditions. The Hirer may inspect the Venue with the Council prior to the Commencement Date of the Hire Period to take note of any existing damage;
- Extra cleaning, rubbish removal, repair or reinstatement of the Venue that the Council reasonably considers is required after the Event;
- Services provided by the Council in addition to the Services that you require or use or which the Council considers necessary for the safe and efficient conducting of the Event;
- Hour or part thereof that you continue to occupy the Venue after the End Date of the Hire Period; and
- Costs, expenses or losses incurred by the Council as a result of a breach or non-observance of these Terms and Conditions by the Hirer, its employees, contractors, agents or invitees.

## **Overdue and unpaid amounts**

### **Payment by Due Date**

The Hirer must pay all invoices on the dates indicated and where the Hirer fails to pay all amounts on time, the Council reserves the rights to cancel the Hirer's booking and this Agreement.

### **Default Interest**

The Council may charge interest for late payment on all amounts due under this Agreement, calculated daily at the rate specified in the Specific Terms, from the due date until the date that the Council receives payment in full of those amounts.

### **Recovery Costs**

The Council may recover from the Hirer, all costs and expenses (including debt collection fees and legal fees) the Council incurs trying to recover any overdue amount from the Hirer including administrative costs of either 15% of the overdue amount or \$300.00 whichever is less.

## **Use and care of the venue**

### **Hours of Use**

The hirer agrees that the hours of use are limited to between the hours of 8am and 11:30pm. The Council will provide the hirer with the appropriate keys/swipe cards as required to allow the user access during these times.

### **Restrictive Use**

The Hirer may only use the Venue to stage the Event as described in the Venue Hire Agreement or as amended and approved by the Council.

### **Proper Conduct**

During the Hire Period the Hirer shall conduct and manage its use of the Venue in an orderly and lawful manner, and shall remain responsible for the conduct of its employees, contractors, agents, invitees and ticket holders and shall ensure that none of them behave in any riotous, offensive or disorderly manner (including drunken behaviour) or in such a manner that is likely to cause danger or annoyance to other members of the public, the Council or damage the reputation of the Venue or the Venue Operator. The Hirer acknowledges that the Council may eject or refuse admission to any person who fails to behave in accordance with the standards required by this clause, in which case the Hirer indemnifies the Council for any claims that may be made against the Council as a result of such action.

### **Licences, Permits, Consents and Authority**

The Hirer must at the Hirer's expense obtain all licences, permits and consents that may be required for the Event and upon request the Hirer will provide the Council with copies of these documents. In addition, the Hirer will obtain the relevant authorisation in relation to use of any third party intellectual property and will not use the Venue for the public performance of any literary, dramatic, musical or other work or entertainment in breach of copyright.

### **Reasonable Care Required**

During the Hire Period, the Hirer shall ensure that all reasonable care is taken in the use and occupation of the Venue so that, with the exception of fair wear and tear, the Venue will be left in the same condition upon completion of the Hire Period, as it was at the commencement. In this regard the Hirer shall not permanently mark, paint, drill or otherwise deface any part of the Venue or make any alteration to the structure, fittings decorations or furnishings of the Venue (in particular, where there is a sports floor that requires special care), without the prior written consent of the Council.

### **Prohibited Goods/Activities**

During the Hire Period the Hirer must ensure that:

- Neither the Hirer nor any of its employees, contractors or agents bring to the Venue any smoke machines or other such devices, firearms, explosives, flammable liquids or other dangerous substances (including fireworks)

or pyrotechnics) which may cause damage or injury to property or persons, except with the prior written consent of the Council and then only in accordance with the conditions of that consent. Notwithstanding any such consent, the Hirer will indemnify the Council and the Venue Owner in respect of any liability or expense it incurred as a result of any such damage or injury;

- Broadcasting and Recording: No radio or television broadcast or films, recordings or video tapes or any type of electronic or digital recording of any kind whatsoever are made for the Event at the Venue, without the prior written consent of the Council.

### **No Smoking**

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

### **Electrical Use and Installation**

The Hirer will:

- Not permit any electrical devices into the Venue unless evidence is provided to the Council that such device has been inspected by a suitably qualified electrician or trained person and complies with New Zealand standards. Further the Hirer shall not connect any electrical installation or equipment or fitting to the electricity supply of the Venue without obtaining the prior approval of the Council to such connection or installation and provided always that such installation or connection as approved by the Council is carried out by a suitably qualified and certificated person as required by current New Zealand legislation;
- Be liable for any costs or damages that arise out of the use of electrical devices or any electrical installation or connection that have not been approved and inspected in accordance with these Terms and Conditions and will indemnify the Council and the Venue Owner in respect of any liability or expense it incurred as a result.

### **Temporary Structures**

The Hirer shall not construct or erect any rigging, scaffolding or other temporary structure or suspend any object or thing from the ceiling of the Venue without obtaining the prior approval of the Council. It shall be a condition of any such approval that such work be carried out by a suitably competent or qualified person.

### **Repairs and Reinstatement**

Upon completion of the Hire Period the Hirer shall leave the Venue in the same condition as it was on the Commencement Date of the Hire Period and in a clean and tidy condition. The cost of any repairs and additional cleaning required by the Council to reinstate the Venue to such clean and tidy condition will be charged to the Hirer in addition to the Venue Hire Fee and any Other Charges.

### **Cleaning**

The hirer is expected to leave the venue in a clean and tidy condition. The Council will provide the overall cleaning of the facility but the hirer is expected to remove any rubbish or other such items from the building at the end of their hire period. Any cleaning that is required in the Auditorium will need to be communicated to the Community Facilities Coordinator in advance so that a clean can be done both before and after the performance/s. If there are any issues with the cleaning provided in the building the hirer is to bring this to the attention of the Community Facilities Coordinator so that it can be rectified.

### **Advisory – Main Stage Surface Condition**

The main stage area has been assessed as having an uneven surface. A survey has shown a maximum stage level variation of 60 mm over the entire working stage. There are local level variations of 20 mm per meter, this is visible during a visual inspection. There is a stage level variation of up to 40 mm between the two backstage entry doors. This is clearly reflected at the bottom edge of the permanent cyclorama frame.

## Venue setup

### **Set up Requirements**

Unless agreed otherwise in the Specific Terms the parties will within 1 month prior to the commencement of the Hire Period agree in writing, the Venue set up requirements and responsibilities for the Event, based on the following information:

- Venue layout
- Event programme/timetable;
- Equipment and Technical requirements;
- Equipment being brought to the Venue;
- Safety Plan; and
- All requirements as to the Services to be provided by the Council.

If any discussion is needed on the safety plan the person to discuss this with will be the House Technician at the time the hirer is discussing Technical Requirements.

### **Advance Deliveries**

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

### **Receipt of Advance Deliveries**

Any advance deliveries to the Venue are entirely at the risk of the Hirer and will only be received by the Council on the basis that the Council has no liability for loss or damage to any equipment or suppliers, before, during and after the Event. To facilitate advance deliveries to the Venue, the Council may sign delivery receipt documentation on behalf of the Hirer, provided always that the Council accepts no liability in relation to the deliveries and the Hirer will fully indemnify the Council and the Venue Owner in this regard.

### **Removal/Storage**

All equipment and supplies relating to the Event must be removed at the end of the Hire Period. No onsite storage will be provided.

## Services

### **Services Offered**

In addition to providing the Venue the Council is able to provide technician services, on the terms to be agreed between the parties as detailed in *Technician Cost* below.

### **Services Schedule**

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

## Ticketing

The hirer may sell tickets to the show through whichever means they choose. The option to use Town Hall Cinemas Online Ticketing Service for ticketing purposes is to be arranged directly with Town Hall Cinemas.

## **Catering (food and beverage)**

### **No Food or Beverage**

The Hirer must not bring any food or drink into the Venue and must not remove any food or drink from the Venue except where prior arrangements have been made with the Council. In any event the Council will not be liable in relation to any food once it has been removed from the Venue.

### **Venue Caterer**

If the Hirer wishes to serve any food or drink then the Hirer must use the Town Hall Cinemas for any Event catering at the Venue.

### **Alcohol**

If the Hirer wishes to have alcohol available for the Event, then the Hirer must arrange with Town Hall Cinemas and comply with all conditions and requirements of the Town Hall Cinemas liquor licence. All liquor must be supplied by Town Hall Cinemas. No alcohol is to be consumed back of stage/back of house including dressing rooms, studios and the scene dock.

### **Ticket Office/Bar**

If a hirer wishes the bars to be open during the performances (before and at intermission) the times required need to be confirmed to Town Hall Cinemas to allow appropriate staffing levels. This will need to be included in the list of dates that the space is booked for.

## **Staff/Personnel**

The Council may upon request from the Hirer, provide staff to assist with the running of the Event, including technicians. Where the cost of all such staff is not included in the Venue Hire Fee or Services Fee, then such cost will be an additional charge paid by the Hirer and based on the Venue's applicable rates.

## **Technician services**

### **Technician Requirement**

It is a requirement as part of the hire of the Auditorium and Theatre that the hirer must have the House Technician present at the following specified times:

- Rigging and de-rigging (or any other form of installation of technical equipment)
- Any work at height; whether this is on a ladder, the sky deck or the provided elevated work platform
- And any other time that the Council deems that supervision is required at its discretion.

### **Technician Cost**

This cost is provided in the schedule of hire charges for the Rangiora Town Hall. A discussion when booking with the Technician is required so that both parties can confirm the number of Technician hours required as shown in *Technician Services* above. As shown in the schedule there is a number of hours included in the rates with any additional hours that are required to be charged at the shown rate.

## **Promotion and advertising**

### **Promotion**

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

### **Approval**

Unless agreed otherwise between the parties, the Hirer will provide the Council with the opportunity to approve all advertising for an Event prior to publication, use of the Venue name and logo and contact details and the overall look and feel.

## Health and safety

### Compliance

The Hirer will comply with the Venue's health and safety policies and procedures and the requirements of the Health and Safety in Employment Act 1992 (and any amendments).

### Hirer Responsibility

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

- The Venue's "house rules" and policies and procedures regarding health and safety, including but not limited to evacuation procedures, maximum number of persons at the Venue etc;
- Any applicable safety programme including without limitation the "Guide to Safe Working Practices in New Zealand Theatre and Entertainment Industry";
- The obligations and duties under the Health and Safety of Employment Act 1992; and
- The Venue's "no smoking policy" and the Hirer's obligations under the Smoke Free Environments Amendment Act 2003.

### Notification

The Hirer will immediately notify the Council of any hazards which the Hirer observes or becomes aware of at the Venue. The Hirer must also immediately notify the Council of any Health and Safety incident occurring at the venue. For serious incidents the Hirer will contact the Council immediately on 0800 965 468 or email office@wmk.govt.nz. The Hirer will provide the Council with such assistance as may be necessary to conduct any incident or accident investigation.

## Cancellation

### Cancellation by Hirer

If the Hirer cancels the Event, the Council will retain the non-refundable Confirmation Fee and unless specified in writing, otherwise, the following cancellation provisions will apply. Where cancellation occurs within 7 days of the Event, 50% of the deposit will be kept.

### Cancellation by Council

The Council may cancel the Hirer's booking and this Agreement if:

- The Council considers that the staging of the Event or the nature of the Event will, or might contravene any statute, order, regulation, rule of law or any other requirement of a public or local authority or otherwise be in breach of reasonable standards of public decency. Where this contravention is not apparent from the description of the Event provided by the Hirer, the cancellation will be deemed to be a cancellation by the Hirer and the details in *Cancellation by Hirer* will apply;
- It reasonably considers that the management control of the Event by the Hirer is deficient or inadequate and/or the behaviour of the guests or attendees of the Event is such that it would lead to danger or injury to any person or material damage to any property, including the Venue itself. In these circumstances details in *Health and Safety Compliance* will apply.

## Postponement or reduction in hire period

If for any reason whatsoever the Hirer postpones the date on which the Event is to be held and/or alters or reduces the Hire Period, then unless agreed otherwise between the parties, the cancellation provisions set out in clause 16.1 of this Agreement will apply, except where the Event is still to be held but the Hire Period reduced, the amounts payable under clause 16.1 shall be pro-rated in accordance with the reduced Hire Period.

## Insurance

The Hirer is responsible for any insurance required of any goods/chattels supplied by the Hirer in the venue.

## Termination

### **Termination by the Council**

The Council may at any time terminate this Agreement by notice in writing to the Hirer with immediate effect, in any of the following circumstances:

- The Hirer is in default in the observance or performance of any of its obligations under this Agreement and such default is not remedied within a reasonable time (as determined by the Council in its sole discretion taking into account the circumstances) from the date the Council has notified the default and requested the Hirer to remedy such default;
- If the Hirer fails to pay any sum of money payable to the Council pursuant to this Agreement, on the due date for payment;
- If any secured creditor of the Hirer goes into possession of any business or undertaking of the Hirer either by itself or by any agent or any receiver is appointed over any business or undertaking of the Hirer, if the Hirer (being a natural person) has an order of bankruptcy made against him or her, if an application for the liquidation of the Hirer (being a company) is made or if a resolution is passed by the creditors or members of the Hirer (being a corporation) resolving or requiring that the Hirer be put into liquidation;
- If the Hirer enters into any arrangement, composition or assignment under the Insolvency Act or becomes unable to pay debts as they fall due.

### **Obligations on Termination**

Upon termination as above, the Hirer will immediately remove all the Hirer's property, vacate the Venue and immediately deliver to the Venue Operator all property belonging to the Venue Operator. The Hirer will have no entitlement to claim compensation or damages from the Council on account of any inconvenience or loss to the Hirer as a result of termination detailed in *Termination by the Council*.

### **Without Prejudice**

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

## Guarantee

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

## Liability and indemnity

### **Indemnity**

The Hirer indemnifies the Council and the Venue Owner from and against all claims, damages, liabilities, costs, fines, levies, penalties, losses and expenses (including reasonable legal fees) arising out of any breach of the Hirer's obligations under this Agreement or the termination of this Agreement, including any loss, damage or injury caused or contributed to by the Hirer or any of its employees, contractors, performers or agents to:

- Any persons; or
- The Venue or any property or facilities located or stored in the Venue, including the Areas.

### **Hirer's Property**

The Hirer acknowledges and agrees that the Council and Venue Owner are not responsible for loss or damage to any of the Hirer's property in the Venue, except where that loss or damage is caused by the Council's negligence.



### **Indirect/Consequential Loss**

The Council and the Venue Owner shall not be liable to the Hirer under contract or tort or otherwise, for any indirect or consequential loss arising under or in connection with this Agreement. The extent of the Council's and the Venue Owner's liability to the Hirer under this Agreement (collectively) for any loss, damage, claim or expense (whether due to the Council's negligence or otherwise) is limited in aggregate to the amount of the Venue Hire Fee.

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

### **Notices**

#### **Form**

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

#### **Delivery**

Notices will be deemed to be given:

### **Force Majeure**

In the event that the Council or the Hirer is unable to perform or discharge their respective obligations under this Agreement by reason of any fire, flood, earthquake or similar catastrophic event, outbreak of state of emergency, Act of God, warlike hostilities, an Act of Parliament, regulation or direction or any strike or industrial action or epidemic (together "Force Majeure Event") which is beyond the reasonable control of the party affected, then the parties' respective rights and obligations shall be suspended and each of the parties shall be relieved of their respective obligations during the Force Majeure Event, provided always that the dates and times for the Event and Hire Period shall not be varied or extended as a result of such Force Majeure Event, except with the written agreement of both parties.

### **Inconsistency**

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

### **No tenancy rights**

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

### **No waiver**

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

### **Entire agreement**

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

### **Assignment**

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

## **Relationship**

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

## **Applicable Law**

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

## **Consumer Guarantees Act**

The Hirer acknowledges that the hiring of the Venue is in terms of the Consumer Guarantees Act 1993 a supply for business purposes and as such the provisions of that Act do not apply.

## **Indemnities**

Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the Council and the Hirer and survives termination of this Agreement. It is not necessary for the Council or the Venue Owner to incur expenses or make payment before enforcing a right of indemnity conferred by this Agreement, except that where an event occurs that may lead to the Council or Venue Owner enforcing a right of indemnity conferred by this Agreement the Council and the Venue Owner will each use its best endeavours to mitigate any damages, costs, loss or expenses incurred by them.

The Hirer unconditionally and irrevocably undertakes that each indemnity in this Agreement that has been given by the Hirer in favour of the Venue Owner under this Agreement constitute a promises that are for the benefit, and are enforceable at the suit, of the Venue Owner pursuant to the Contracts (Privacy) Act 1982. Despite this clause, this Agreement may be altered, modified or added to by agreement between the Hirer and the Council, without the consent of the Venue Owner.