



**BYRON BAY COMMUNITY  
CULTURAL CENTRE**

**TERMS AND CONDITIONS OF HIRE**

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JULY 2008

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# 1. Introduction

The Byron Community & Cultural Centre (BCCC) is managed by the Byron Bay Community Association (BBCA), which as, an incorporated Association, is the legal entity responsible for signing contractual agreements for the Centre and setting policy for the Centre's use. All users of the Centre must sign a formal contract (the booking contract) with the BBCA and agree to observe these terms and conditions. It is the Hirer's responsibility to ensure that they obtain and read the most up-to-date terms and conditions of hire.

# 2. Standard business hours

Business hours are 9am – 5.00pm, Monday-Friday.

Hire outside these hours (including public holidays) will incur an open and lock-up fee. Any such charges will be identified and costed in the booking agreement in alignment with current price list.

# 3. Fees and charges

## 3.1 Fees and charges

Centre users may hire the space at standard rates and in some instances discounts may be applied. The applicable hire rate will be set out in the booking agreement in alignment with current price list.

Discounted fees will be applied for not-for-profit organisations located in the Byron Shire and Northern Rivers region. Evidence of not-for-profit status in the form of Australian Taxation Office NFP documentation is required.

Discounted fees will be applied for local groups/individuals living in the Byron Shire for hire of the theatre space upon receipt of proof of residency in the form of a current drivers' license, utility notices or council rates notices bearing the hirer's name.

## 3.2 Regular hirers

Venue management reserves the right to vary the room or time allocated to a regular Hirer if necessary. The BBCA will give Hirers at least two weeks notice of any such variation and will make every effort to negotiate an acceptable alternative arrangement with Hirers.

## 3.3 Inclusions

All charges include cleaning and electricity. Additional charges will be incurred for service outside the standard inclusions including:

- technical equipment
- additional cleaning for spaces left in poor condition
- hire outside standard hours
- administrative or other staffing support

All Hirers are responsible for leaving rooms in the condition they find them.

Hirers who hire space with an applied community discount are responsible for setting up rooms within the booking period.

## **4. Booking procedures**

### **4.1 Booking confirmations**

4.1.1 All bookings are to be made on the BBCA's authorised booking contract and confirmed by the venue staff. Bookings will not be confirmed until the booking agreement and all required attachments have been completed, the deposit has been paid, the booking agreement has been signed and a copy of the public liability insurance certificate of currency has been received.

4.1.2 Where the Hirer does not hold public liability insurance cover, they may sign a waiver for low-risk activities.

### **4.2 Hire of the Centre**

Subject to the provisions of these terms and conditions of hire, the BBCA grants to the Hirer the licence and authority to use and occupy that part of the Centre referred to in the booking agreement only for the purpose of the agreed use and for the agreed period. The Hirer agrees to undertake the agreed use accordingly.

### **4.3 Payments**

On signing the booking agreement, the Hirer will pay a deposit to at least the value of 25% of the first day's rental or such other amount as specified in the booking agreement to guarantee the booking, where the booking charge exceeds one hundred and fifty dollars (\$150) excluding GST.

Bookings with a maximum charge of one hundred and fifty dollars (\$150) excluding GST are to be paid in full before the booking date.

Final payment should be made within 7 days of completing the event or as set out in the booking agreement.

The Hirer grants a charge over the deposit in favour of the BBCA for all monies payable by the Hirer under the booking agreement. The BBCA may apply the deposit towards the discharge or payment of any liability the Hirer incurs to the BBCA.

Booking status is not considered to be confirmed prior to payment of designated deposit.

### **4.4 Cancellation of booking**

If the Hirer cancels a booking, they will remain liable for administration charges and the full cost of the hire, depending on the notice given and subject to the BBCA's ability to re-hire the space.

No refunds will be given for cancellations of less than 14 days' notice. Full cost of hire will be required for cancellations less than 14 days from the booking date.

Subject to the BBCA's ability to re-hire the space, a refund of up to 50% of the hire charge may be granted for cancellations of up to one month's notice.

Subject to the BBCA's ability to re-hire the space, a refund of up to 75% of the hire charge may be granted for cancellations of more than one month's notice.

#### **4.5 Over-runs**

If the agreed use extends beyond the expiration of the time specified in the booking agreement, the Hirer will pay to the BBCA a further amount based on the hourly rate for each hour or part thereof during which the agreed use extends beyond the time specified in the Agreement.

#### **4.6 Rehearsals and set-ups**

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 event.

Where the Centre is used by the Hirer in accordance with such arrangements, such use will be deemed to be additional hire and charges will be payable by the Hirer accordingly.

#### **4.7 Omission of single nights**

If any single nights are omitted from a season hiring at the Hirer's request, the Hirer will be liable for payment of the normal rental except when another Hirer takes up the booking for the date.

#### **4.8 Centre staff**

Any costs incurred for staff provided by the BBCA for the Hirer's use or considered necessary to meet the Hirer's requirements will be charged to the Hirer at the applicable labour charge-out rates. All such rates will be specified in the current venue price list.

The BBCA reserves the right to specify a minimum number of staff to be engaged or present during any time of the agreed use.

#### **4.9 Production charges**

As specified in the booking agreement, the Hirer will pay amounts determined by the BBCA for all stage operational costs, production hires and charges, and any other costs for facilities, equipment, services or items provided by the BBCA on the Hirer's behalf.

The BBCA will provide a quotation setting out the cost of such items, to be agreed in writing by the Hirer. The BBCA will not be responsible for the adequacy or suitability of such facilities, equipment, services or items.

## **5. Use of the Centre**

### **5.1 Date, time and number of performances or events**

A performance or event covered by the terms and conditions of hire will be held on the date or dates and times referred to in the booking agreement and only in such numbers as are agreed (see clause 10.9).

The Hirer will not commence any performance or event earlier or later than the starting time or times specified in the booking agreement unless the BBCA management has previously approved such change of time.

## **5.2 Technical and Front-of-House**

The Hirer will deliver to the venue management full particulars of the Hirer's technical, staging and labour requirements, front-of-house and ticketing requirements in the booking agreement supplied by the BBKA.

The Hirer will promptly inform the venue management in writing of any change or variation in those particulars.

## **5.3 Keys**

All keys to doors and equipment in the Centre will be kept in the charge of persons authorised by the BBKA management and must be returned immediately that the hire is completed. Key deposit will be held and charged at the rate set out in the current venue price list.

## **5.4 Liquor and catering**

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

The Hirer will not bring into, receive or provide in the Centre liquor or refreshment without the express permission of the BBKA.

## **5.5 Safe and proper use of Centre**

The Hirer and his/her agent and servants will use the Centre, its facilities and equipment in a safe, proper and efficient manner to the satisfaction of the venue management.

The Hirer will comply immediately with any direction of the centre management in connection with the safe and proper use of the Centre, its facilities and equipment and follow the agreed use.

The Hirer will leave the Centre, its facilities and equipment in a clean, safe and proper condition to the satisfaction of the venue management.

The Hirer will restore at his/her own cost all sound, lighting, staging and other equipment and facilities to the basic standard arrangement to the satisfaction of the venue management. If such restoration is not carried out to the satisfaction of the venue management, the Hirer will pay any cost or expense incurred by the centre management in restoring equipment of facilities to the standard arrangement.

The Hirer will pay any cost or expense additional to that normally incurred by the BBKA for the purpose of maintaining that part of the Centre for which the licence is granted to ensure that the Centre is in a clean and sanitary condition. This cost will include the cost of waste disposal. The incurring of such additional cost or expense will be at the sole discretion of the centre management.

The Hirer will be responsible for payment of all costs incurred to repair any fitting, fixture, or equipment damaged as a result of their booking.

A security deposit at the rate designated in the current price list is required from all theatre Hirer's. The BBKA reserves the right to remove costs related to any repair or replacement from monies held as security deposit. Where costs exceed the total of the security deposit the BBKA will cost the Hirer accordingly.

### **5.6 Alterations and additions**

The Hirer will not make any alterations or additions to the structure, fittings, facilities or equipment of the Centre.

The Hirer will not provide any additional decoration or furnishings to the Centre unless the centre management has previously approved such additions.

The Hirer will immediately after such performance or event comprising the agreed use (or immediately after a series of events or performances) remove all such additional decoration or furnishings.

### **5.7 Protection of floors**

The Hirer will carry out such directions that may be issued by the venue management for the protection of stages and floors.

The Hirer will cover stages and floors with suitable material if required by the venue management.

The Hirer will not screw, bolt, blue-tac or otherwise affix sets or structures to the floors or walls unless the venue management has granted approval in writing in advance.

The Hirer will be liable for all costs incurred by the Centre in the provision of protective flooring and all labour costs associated with installing and removing any protection.

### **5.8 Additional equipment**

If the Hirer wishes to use their own sound, lighting or other electrical devices and mechanical equipment this must be of a standard acceptable to the centre management.

Accordingly the Hirer must submit such equipment for inspection and approval by the venue management. All electrical equipment provided by the Hirer must display current electrical inspection tags.

Should the Hirer wish to place any equipment including mixer boards in the theatre or rooms, it must be placed so that such equipment does not obstruct viewing. 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 plan.

The Hirer shall not bring into the Centre any equipment not approved for use in the Centre. This includes all smoke, smog and bubble machines.

### **5.9 Sound levels**

The BBCA reserves the right to exercise control of sound levels within the Centre in accordance with the Place of Public Entertainment under Section 68 of the Local Government Act.

### **5.10 Supervision of personnel**

At all times the Hirer will ensure that their agents and servants or any other persons who enter 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 and approved by the centre management for that purpose.

#### **5.11 Vacating the Centre**

The Hirer will directly after the last performance or event of the agreed use remove from the Centre all their sets, costumes, properties, equipment and any other goods and/or materials brought into the Centre by the Hirer or their agents or servants.

#### **5.12 Failure to remove equipment**

In the event that the Hirer fails to remove any or all of their sets, costumes, properties, equipment, goods and/or materials from the Centre at the time of expiration of the booking agreement or immediately following the final performance or event the BBCA may, at the sole risk and expense of the Hirer, remove the same.

If the BBCA provides storage for such goods, it may charge the Hirer and the Hirer will pay to the BBCA the storage charges incurred by the BBCA. Rates will be charged at those included in current price list.

#### **5.13 Fireproofing and fire hazards**

The Hirer will not bring into the Centre any scenery, curtains, properties or other goods or materials unless the same have been fireproofed in accordance with the prevailing fire code in the State of NSW and are maintained by the Hirer in a fireproofed condition to the satisfaction of the venue management while they are in the Centre.

The Hirer will not use any materials including, but not restricted to, candles, bare flames and barbecues, that could cause a fire hazard.

#### **5.14 Performing rights and copyright**

The Hirer will not infringe, 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 agreed use.

The Hirer will be obliged to pay all or any royalties to the Australian Performing Rights Association or any other bodies or person entitled to be paid royalties.

The Hirer undertakes to pay such royalties promptly as they fall due.

#### **5.15 Sound or television recording**

The Hirer will not transmit, produce, or permit or allow the transmission or reproduction by television or sound broadcast or by any other means, any part of a performance or event unless the same has been previously approved in writing by the centre management.

When approval has been granted for a performance or event to be televised, broadcast, filmed or recorded, all publicity and advertising must clearly state that such is the case.

If any performance or event is broadcast from the Centre whether by or for radio or television and whether it is broadcast live or taped, a fee will be payable to the BBCA by the Hirer.

If such transmission or reproduction results in seating capacity being reduced or sight lines impeded because of technical requirements the Hirer must provide such information to enable tickets to be sold to an accurate seating plan.

#### **5.16 Program and merchandise sales**

The Hirer will not sell or permit to be sold any program, information sheet, merchandise or services in the Centre other than that approved by the centre management.

Unless otherwise approved by the venue management, all sales will be managed and conducted entirely by the BBCA, its staff and agents and the Hirer will bear the cost of any expenses incurred, in addition to paying such royalties and commissions specified in the current venue price list.

#### **5.17 Display of posters and advertising materials**

The Hirer may, with the consent of the venue management, place material necessary to effectively advertise the agreed use in the front of house area or other areas of the Centre covered by the booking agreement.

No posters or advertising materials will be displayed in the Centre or its surrounds except on notice boards and in display cases provided for the purpose.

The Hirer will comply with all local government regulations in relation to the display of promotional material in public areas. The Hirer will be responsible for all infringement and fines which may be issued by local authorities associated with the improper display of promotional materials.

The Centre reserves the right to prevent the display of promotional material that contravenes legal regulations in regards to content and copy right.

#### **5.18 Distribution of Centre information**

The BBCA reserves the right to use the front of house areas and other areas to advertise forthcoming attractions.

The Hirer will permit the BBCA to announce any performance or event in connection with the agreed use, or to distribute to any persons attending the Centre, any circular, brochure or information sheet provided by the BBCA containing details of attractions scheduled or taking place in the Centre.

#### **5.19 Program details and variations**

Upon request, the Hirer will deliver to the venue management full particulars of artists, items, works or events to be performed or presented in connection with the agreed use.

The Hirer 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 of any item or work to be performed or displayed.

#### **5.20 Logos**

In its advertising and program materials the Hirer will reproduce the name of the premises as detailed in the booking agreement and the correct name of any area within the Centre.

The BBCA's logo may only be used with the BBCA's approval and in a typeface and format approved by the centre management.

#### **5.21 Evacuation**

The Hirer agrees, when requested by the centre management, to insert into any official program or to otherwise announce any emergency evacuation procedure that may be determined by the venue management.

The Hirer will comply with all directions given by any competent authority including the Chief Officer of the Fire Brigade and any person holding a like appointment in any way relating to the conduct of the venue.

The Hirer will comply with all rules, regulations and directions with regard to fire precautions.

#### **5.22 Latecomers**

The BBCA reserves the right not to admit latecomers to any given performance or event until a suitable break arises in that performance or event.

#### **5.23 Rehearsals**

No unauthorised personnel will be permitted to attend and view a rehearsal or preview a performance or event without the express permission of the BBCA.

Where such permission is granted, the BBCA may engage such staff as it deems necessary to guarantee the safe and proper use of the Centre under such circumstances, and the Hirer will reimburse the cost of such engagement to the BBCA.

#### **5.24 Industrial awards**

The Hirer will at all times observe and comply with the provisions of all industrial agreements, awards and determinations regarding any person or persons employed in connection with these terms and conditions of hire.

#### **5.25 Access**

The Hirer or their agents may at any time during a performance or event have access to all parts of the premises that are necessarily used for the performance or event, but not including those parts used by the BBCA's administration and control rooms other than those essential to the performance or event and allocated to the Hirer for that purpose, except with the permission of the centre management. Use of the space designated at the "Green Room" is at the discretion of centre management and will not be deemed as an area of use without the express authority by management.

#### **5.26 Non-exclusivity**

The BBCA reserves the right to use any part of the Centre at any time or times that the Hirer is not using the same for rehearsals, performances or events and by mutual agreement, so that the BBCA's use does not interfere with any performance or event which the Hirer is giving.

#### **5.27 Smoking**

The Hirer and their agents or servants will not smoke within the Centre building.

### **5.28 Agents**

The Hirer will ensure that their agents and servants comply with the provisions of these terms and conditions of hire at all time.

### **5.29 Jeopardising the Centre's licences**

The Hirer will not do or suffer to be done anything, which may jeopardise the lawful administration or management of the Centre or make the BBCA liable to forfeiture or suspension of any of its licences.

### **5.30 BBCA directions**

The Hirer will comply forthwith with any requirement or direction under these terms and conditions of hire made or given by the BBCA.

The BBCA will be at liberty to suspend or control to any extent and in any way it may deem necessary, any performance or use which in its judgement is not in accordance with the provisions of these terms and conditions of hire, but without rendering the BBCA or any other authorised person liable in damages in respect of such suspension or control.

## **6. Hire with majority youth content**

The Hire of the Theatre carries additional requirements for all groups with a majority youth/child participation. These organisations include, but are not restricted to schools, independent youth dance and performance schools.

These requirements are implemented for all groups with a majority youth/child performer base and organisations whose performance are targeted to a youth/child audience.

Where the additional requirements are not met by the organisation the BCCC reserves the right to supply additional supervisory staff and charge at the staff hire rate designated in the current venue price list. The following regulations are the responsibility of the Hirer.

- supply additional adult supervision to adequately monitor the performance space the foyer and courtyard areas at all times performers/audience are congregated in these areas
- ensure no performers/audience are within any area of the venue not included in the booking
- ensure no performer is within the confines of the theatre gallery or catwalk.
- ensure no performer enters the theatre or "Green Room" with food or beverages.
- ensure all performers remain within the theatre space during rehearsal.
- ensure the performers/audience adhere to adequate noise levels and behave in a manner that will not cause stress to any tenant or Hirer within the venue.
- provide adult supervision at all times for breaks where performers may be in the courtyard area.
- provide adult supervision at all times for areas used as dressing rooms – including Green Room, Fletcher Street and washrooms.
- will not vacate the premises while any performer/audience member under 18 years of age remains on the premises.

Hirer is solely responsible for all performers and audience under the age of 18 within the venue preceding, during and following rehearsal and performance.

Performances must be designed to allow access from back stage areas only unless the permission of management has approved alternate entry zones. In the instance where management has approved alternate entry adult supervision is to be provided to monitor the transit from dressing room to access point.

## **7. Insurance**

### **7.1 Increase of risk**

The Hirer and their agents and servants will not, without the written authority of the centre management, 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 may be increased.

The Hirer will pay to the BBCA in advance all amounts payable by way of costs for increased insurance premiums on any policy or insurance so affected.

### **7.2 Insurance**

The Hirer will be responsible for insuring its sets, costumes, properties and equipment and all goods and materials of any kind brought into the Centre in connection with the performance or event.

The BBCA does not take any responsibility for the Hirer's property.

### **7.3 Public liability**

At all times while using the venue under the authority of these terms and conditions of hire, the Hirer will effect and keep current a public liability insurance policy for the sum of not less than ten million dollars.

The Hirer will supply a Certificate of Currency with each booking agreement unless the BBCA agrees to a waiver.

## **8. Ticket sales, distribution and receipts**

### **8.1 Sale and distribution of tickets**

Unless otherwise expressly authorised by the centre management, all ticket sales for each and every performance or event in the BBCA theatre will be made from the BBCA's Box Office Service

Unless otherwise expressly authorised by the venue management, the receipts from the sale of all tickets will be paid directly to the BBCA and not to the Hirer or any other person or persons.

Where the BBCA's Box office Service is not implemented by the client a Front of House Fee will apply to each booking. Front of House Fee will be charged at the rate outlined in the current venue price list.

## **8.2 Retention of receipts**

The BBCA will retain in trust all or any part of the monies paid to the BBCA whether through advance booking charges or otherwise until the conclusion of the performance to which such monies relate.

In the case of a season or series of events, the BBCA will retain in trust all monies paid to the BBCA until the final performance of the season.

The BBCA reserves the right to hold in trust all sums payable under the provisions of these terms and conditions of hire until receipt of all monies owed to the BBCA by the Hirer in relation to costs as outlined in the booking agreement,

If the Hirer defaults in making any payments under the terms and conditions of hire, the BBCA may take control of any proceeds or ticket sales it collects or receives in connection with the agreed use and apply such monies as follows:

- In refunding collected monies to ticket holders and/or
- In payment to the BBCA in compensation for deficiency, loss or damage arising from 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.

The BBCA may take this action in addition to any other remedy the BBCA may possess under the terms and conditions of hire. Nothing in the terms and conditions of hire will be interpreted as making the BBCA or any of its agents liable to the Hirer for any losses in ticket revenue due to fraud or non-payment by a purchaser.

The BBCA will ensure ticket reconciliation and final accounting of all monies held in trust in relation to ticket sales will be finalised within fourteen (14) working days from the final performance or completion of the season.

## **8.3 Cheques and credit cards**

The Hirer will bear any losses incurred by the presentation or invalid cheques and credit cards.

## **8.4 Booking fee**

The BBCA will be at liberty to charge a booking or selling fee as specified in the current venue price list on all tickets sold exchanged or returned on behalf of the Hirer, either at the BBCA or elsewhere, and to retain such fee for its own use.

Any such fee will not be regarded as part of the proceeds of ticket sales for the purpose of these terms and conditions of hire.

The Hirer is at liberty to offer as many complimentary tickets as it deems appropriate. However, the BBCA fee will apply after 10 complimentary tickets per show have been issued.

## **8.5 Credit Charges**

The Hirer will pay charges and service fees payable to any credit organisation in respect of ticket sales made from the BBCA or elsewhere in connection with the agreed use.

### **8.6 Supply of ticket information**

If the BBCA agrees to supervise the printing of tickets and to this end the Hirer will supply all information required to undertake the printing of tickets as laid out in the booking agreement to the BBCA:

- the information required to appear on the face of the tickets
- the prices for which the tickets are to be sold
- the persons who are to receive complimentary tickets

Thereafter the BBCA will cause tickets to be printed with the cost of any printing or computer event creation charges being met by the Hirer.

### **8.7 House Seats**

The BBCA will, at the sole discretion of the centre management, withhold from sale and distribution for any or all performances or events of the agreed use, 6 house seats per performance. Such seats will be in such part of the auditorium as the venue management determines.

The centre management may release house seats for sale at their discretion, provided that the BBCA will 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 these terms and conditions of hire.

## **9. Indemnities**

The Hirer hereby indemnifies and agrees to keep indemnified the BBCA from and against:

- All claims, actions, demands, losses, damages, costs and expenses for, or in respect of which, the BBCA or its agents and servants will or may be liable or become liable in respect of, or arising from, any accident, loss, theft, damage or injury to any persons or property by reason of any default, omission, breach of duty or breach of statutory duty on the part of the Hirer, his/her agents servants, performers, users, invitees, contractors or sub contractors in that part or the Centre in respect of which this licence is granted, whether founded in negligence or otherwise;
- All claims, actions, demands, losses, damages, costs and expenses for, and in respect of, any loss, theft, damage or injury caused by any officer of the BBCA or the BBCA's staff when acting under the direction, order or control of the Hirer, his/her agents or servants in connection with the agreed use pursuant to these terms and conditions of hire, whether founded in negligence or otherwise;
- All outlays made by the BBCA in the event that the Hirer does not proceed with the agreed use or cancels or postpones any performance or performances. The indemnity will extend not only to costs actually incurred by the BBCA at the date of cancellation or postponement, but to all outlays made by the BBCA as a consequence of the Hirer's cancellation or postponement including but not limited to refunding of tickets and the loss of booking fees in respect of ticket sales;
- Any other claim, action, demand, loss, damage or test of any kind that is consequent upon the agreed use pursuant to these terms and conditions of hire.

## 10. Further Agreement

### 10.1 Revocation of licence

If, at any time, any payments pursuant to these terms and conditions of hire are not paid by the Hirer to the BBCA, the BBCA may, by notice in writing delivered to the Hirer at the Hirer's address in the booking agreement, demand, upon not less than two clear days notice, payment of outstanding payments due.

If the Hirer fails to make such payments within the said time, the BBCA may forthwith terminate these terms and conditions, whereupon the Hirer's licence to use and occupy the Centre will cease forthwith, but without prejudice to any right or remedy of the BBCA for any breach by the Hirer of these terms and conditions of hire. If at any time in the opinion of the BBCA:

- 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 10.1 hereof; or
- there is likelihood that damage may be caused to the premises or any part or the Centre if the Hirer exercises their rights and authorities granted by the booking agreement, or
- the organisation or advertising or the manner in which any performance or event 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 BBCA;
- for any reason not arising out of the wilful or negligent act or default on the part of the BBCA the Centre ceases to be available for use by the Hirer, then the BBCA may revoke or discontinue any licence and authority at any time by giving the Hirer notice in writing cancelling the booking agreement forthwith whereupon these terms and conditions of hire will be at an end, but without prejudice to any right or remedy of the BBCA for any breach of the Hirer of these terms and conditions of hire.

### 10.2 Loss, injury or damage

The Hirer will repair and reinstate, or pay the cost of repair or 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 wilful or otherwise and whether founded in negligence or otherwise, by the Hirer their agents or servants or by the BBCA's staff employed by the Hirer under these 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 or event.

The Hirer will forthwith repay to the BBCA on demand any costs incurred by the BBCA in repairing or making good any damage so caused if the Hirer fails to observe the provision of this clause.

If the damage has, in the opinion and at the sole discretion of the venue management, 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 BBCA may have agreed with another person or persons or any concurrent or subsequent uses the BBCA may have itself undertaken, the Hirer will pay to the BBCA all costs, losses, damages and expenses of any kind arising out of the postponement or cancellation of all or part of the aforesaid uses.

### **10.3 Notification of loss**

The Hirer will notify the BBCA immediately on becoming aware of any damage or loss to the Centre, its facilities or equipment and of any injury to any person whatsoever in the Centre.

### **10.4 Strikes, power failures**

The BBCA will not be liable to the Hirer or their agents or servants for any loss of income or benefit or any liabilities which may be incurred either to the BBCA or any other person, or for any damage, loss or injury caused to the Hirer, their agents or servants or to goods or equipment owned, operated or hired by the Hirer or their agents and servants resulting from:

- a strike by any employees or contractors engaged or employed by either the BBCA or the Hirer or any other persons or group of persons or
- 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 or hired by the BBCA for the supply of chilled water or electricity or any other power or energy.

### **10.5. Emergency, security services**

The Hirer and their agents and 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 BBCA or fire brigade ambulance service, first aid service or other emergency procedures.

The Hirer, their agents, employees and contractors will observe the Centre's internal security and emergency evacuation procedures. If at any time in the opinion of the venue management:

- 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
- 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
- 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
- the use of the Centre is prohibited, obstructed or hindered by reason of any industrial action or act of God or civic disorder the venue management may revoke or discontinue the licence and will repay to the Hirer all sums paid by the Hirer under the provisions of these terms and conditions of hire for that part of the agreed use that is affected.

#### **10.6. Impossibility of contractual obligations due to prescribed events (Force Majeure)**

In the event that the BBCA and/or the Hirer is unable to perform and discharge their contractual obligations arising out of these terms and conditions due to strike, civil disturbance, war or act of God, then the parties will be relieved of their respective obligations accruing and occurring during such time, provided that the time for performance or event as specified in the booking agreement will not be extended as a result thereof, except by written agreement of both parties.

#### **10.7. Right of entry**

The centre management or any other authorised person will have the right to enter at any time any room or area or part of the Centre for which this licence is granted.

#### **10.8. Maximum seating**

The Hirer will not cause the maximum seating capacity of the venue or the agreed use to be exceeded.

#### **10.9. No tenancy or assignment**

The use of the Centre or part of the Centre for which the licence is granted will not be exclusive and the possession of the Centre will remain with the BBCA.

These terms and conditions of hire will not in any way create a tenancy between the BBCA and the Hirer, nor will the Hirer be entitled to assign the benefits of these terms and conditions of hire or any rights given hereunder without the prior written consent of the BBCA.

#### **10.10. Waiver**

The provisions of these terms and conditions of hire will not be taken (either at law or in equity) to have been waived, discharged or released by the BBCA or the venue management unless by its or his/her express consent.

#### **10.11. Dispute**

In the event of any dispute or difference arising as to the interpretation of any part or these terms and conditions of hire, the decision of the centre management will be final and conclusive.

#### **10.12. Law to apply**

These terms and conditions of hire will be interpreted and construed and the rights of the parties will be determined in accordance with the law of the State of NSW.

#### **10.13. 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 BBCA under these terms and conditions of hire will be made in Australian currency.

#### **10.14. Venue management as agent of the BBCA**

For the purpose of these terms and conditions of hire: any action, approval, consent or direction required to be taken or given by or on behalf of the BBCA will be sufficiently taken or given by the centre management, and

The centre management is the agent of the BBCA and any document or writing purporting to be signed by the centre management will be presumed to have been signed by the BBCA.

#### **10.15. Notice**

Without prejudice to any other means of giving notice, any notice given under these terms and conditions of hire will be sufficient given:

- 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 or the Hirer last known to the centre management, and
- to the BBCA or the centre management if addressed to the office of the centre management. 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.

### **11. Plant and electrical installations**

The Hirer will 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.

Where any of the things referred to in the last preceding sub-clause have been damaged and the Hirer is responsible, the Hirer will be deemed to have failed, neglected or refused to make, tend and repair such damage and the Centre will be at liberty to proceed accordingly.

The BBCA will 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.

### **12. Breaches**

The failure of the BBCA to exercise any of its rights for any breach or breaches of the terms and conditions of the booking agreement by the Hirer will not operate as a waiver of the BBCA's right in the event of any subsequent breach or breaches by the Hirer.

### **13. Further clauses**

Further clauses to these terms and conditions of hire (if any) will be contained in the booking agreement .