



**Town of Cambridge**  
**Quarry Amphitheatre**  
**Hire Agreement**



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# PART A – APPLICATION FOR HIRE

## HIRER DETAILS

Name of Hirer (person, company, organisation)

\_\_\_\_\_

Contact person and title

\_\_\_\_\_

Postal address

\_\_\_\_\_

\_\_\_\_\_

### CONTACTS

(B/H) \_\_\_\_\_ (A/H) \_\_\_\_\_

(FAX) \_\_\_\_\_ (MOBILE) \_\_\_\_\_

Email address \_\_\_\_\_

## HIRER EVENT STAFF

Nominated Coordinator, Production Manager, Stage Manager & Technical Operators

### PERSON 1

Name \_\_\_\_\_ Position \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### PERSON 2

Name \_\_\_\_\_ Position \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### PERSON 3

Name \_\_\_\_\_ Position \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

### PERSON 4

Name \_\_\_\_\_ Position \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

## EVENT DETAILS AND PERMITTED USE

Venue required (License Area):

- Quarry Amphitheatre (includes cafe lawn and cavern)
- Quarry Cafe lawn only
- Quarry Cavern only

Name of Event

Type of Event/Artist

Date of Hire

(1st preference)

(2<sup>nd</sup> preference)

Date and time for bump in

Rehearsal date(s) and time

Gates Open

Event start time

Event finish time

Last date of hire

Dates and times for bump out

Rain night provision

YES

NO

If yes, what date(s) do you require

## AMPHITHEATRE EVENT STAFF

The minimum requirement for the number of ushers and car park attendants is governed by the number of patrons and tickets sold.

No. patrons	Duty Manager	Ushers	Car Park Attendant
0 – 200	1	2	0
200 – 350	1	3	0
350 – 500	1	4	1
500+	1	5	2

Please indicate the Amphitheatre event staff required and supplier:

Event Staff	Training Completed	Provided by hirer	Provided by Amphitheatre
Duty Manager / FOH Manager	Yes No	N/A	✓
Usher 1 and Zone Warden	Yes No	N/A	✓
Usher 2 and Zone Warden	Yes No	N/A	✓
Usher 3	Yes No		
Usher 4	Yes No		
Usher 5	Yes No		
Car park Attendant 1	Yes No	N/A	✓
Car park Attendant 2	Yes No	N/A	✓
Audio Operator	Yes No	Upon application	
Lighting Operator	Yes No	Upon application	
Security 1	Yes No	Upon application	
Security 2	Yes No	Upon application	

## TICKETING

### House Tickets

Ticketing for all ticketed events within the Quarry Amphitheatre, including all associated costs, is the sole responsibility of the Hirer.

The Hirer must notify the Town of the ticketing provider. Information relating to sale of the tickets must be supplied to the Town on commencement of ticket selling date. This includes a report on tickets sales four to two weeks before the event followed by twice weekly report of ticket sales prior to the event date. The Town must be informed when events become sold out.

In the event of a cancellation of the Event, null and void tickets must be replaced with valid performance tickets for the same production, by the Hirer.

## HIRER'S ACKNOWLEDGEMENT AND CONSENT

I have read and understood the above information and agree to be bound by the Terms and Conditions provided in section (B) in the event that this application is approved by the Town.

If the booking is made on behalf of any organisation, then I warrant that I am duly authorised by the organisation to be bound by these Terms and Conditions.

Signed (the Hirer)	_____	Date	_____
Name	_____		
Company/Organisation	_____	Position	_____

## APPROVAL

Town of Cambridge accepts the Hirer's Application for Hire and grants the Hirer the licence to use the Quarry Amphitheatre on the Terms and Conditions and this Application for Hire.

Signed (the Town of Cambridge)	_____	Date	_____
Name	_____		

## SECURITY BOND DETAILS (required by all private events)

Credit Card Number	
Credit Card Expiry	
Credit Card Type (Visa or Mastercard Only)	
Name on Card (Name must be the same as Hirer above)	



## PART B – TERMS AND CONDITIONS

### Parties

Town of Cambridge of 1 Bold Park Drive, Floreat Western Australian 6014. (**Town**)

The person specified in the Part A Application for Hire as the 'Hirer'. (**Hirer**)

### Recitals

- A. The Town is the owner and management body of the Quarry Amphitheatre.
- B. The Hirer has applied to hire the Quarry Amphitheatre (or part of it) and the Town has approved the application and agreed to grant the Hirer a licence to use the Quarry Amphitheatre for the Permitted Use on the terms and conditions of this Agreement.
- C. This Agreement consists of the Application for Hire, these terms and conditions, and the Schedules.

### This agreement provides

#### 1. Definitions and interpretation

##### 1.1 Definitions

**Agreement** means this agreement comprising of:

- (a) Part A – Application for Hire;
- (b) Part B – Terms and Conditions; and
- (c) the Schedules.

**AMCOS Licence** means the Australasian Mechanical Copyright Owners Society which collects rights in musical works on behalf of its members, namely composers, writers and music publishers.

**Application for Hire** means the application form in Part A completed and signed by the Hirer and approved and signed by the Town.

**Assistance Animal** has the meaning given to it in the *Disability Discrimination Act 1992* (Cth).

**Authority** means any government, statutory, public or other authority or body having jurisdiction over the Site or any matter or thing relating to it.

**Business Day** means a day, not being a Saturday, Sunday or public holiday, on which banks are generally open for business in the State.

**Claims** includes but is not limited to claims, demands, actions, suits, proceedings, judgments, damages, costs, charges, expenses (including legal costs of defending or settling any action, claim or proceeding) and losses of any nature whatsoever whether based in contract, tort or statute or any combination of these.

**Commission** means the commission as set out in Schedule 1 – Fees and Charges.

**Contractor Work Site Rules & Regulations** means the form so named and located on the Town's website, as amended by the Town from time to time.

**Copyright Licences** means all intellectual property licences required to perform the Event, including any AMCOS Licence.

**Duty Manager** means the person appointed by the Town as a 'Duty Manager' for the Site.

**Emergency Evacuation Procedures** means the Town's emergency evacuation procedures set out in Schedule 2.

**Event** means the event specified in the Application for Hire.

**Hirer's Obligations** means the obligations contained or implied in this Agreement and on the part of the Hirer to be observed or performed.

**Induction Form** means the form named "Contractor & Venue Hirer Induction Form" located on the Town's website, as amended by the Town from time to time.

**Insolvency Event** means the happening of any of these events:

- (a) in the case of an incorporated body:
  - (i) an application is made to a court for an order or an order is made that the incorporated body be wound up; or
  - (ii) an application is made to a court for an order appointing a liquidator or provisional liquidator or one of them is appointed; or
  - (iii) it enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration or arrangement involving any of them; or
  - (iv) it resolves to wind itself up, or otherwise dissolves itself, or gives notice of its intention to do so; or
  - (v) it is or states that it is unable to pay its debts when they fall due; or
  - (vi) it is taken to have failed to comply with a statutory demand; or
  - (vii) it takes any step to obtain protection or is granted protection from its creditors under any applicable legislation or an administrator is appointed to the incorporated body; or
  - (viii) a person becomes an insolvent under administration as defined in section 9 of the *Corporations Act 2001* (Cth) or action is taken which would result in that event;
  - (ix) anything analogous or having a substantially similar effect to any of the events specified above happens under the Law of any applicable jurisdiction.

- (b) in the case of an individual:
- (i) the individual proposes or enters into a deed of arrangement, composition with or deed of assignment or an assignment for the benefit of all or any of the individual's creditors or any class of creditors;
  - (ii) the individual commits an "act of bankruptcy" as that term is defined in the *Bankruptcy Act 1966 (Cth)*; or
  - (iii) anything analogous or having a substantially similar effect to any of the events specified above happens under the Law of any applicable jurisdiction.

**Law** means any statute, rule, regulation, proclamation, ordinance or by-law present or future of Western Australia and, where applicable, the Commonwealth, and any amendment or re-enactment of them for the time being in force.

**LGA** means the *Local Government Act 1995 (WA)*.

**Licence Area** means the area licensed to the Hirer as set out in the Application for Hire.

**Licence Fee** means the fee payable for the Licence Period specified in Schedule 1 – Fees and Charges.

**Licence Period** means the period of hire commencing on the date of hire and ending on the last date of hire, as set out in the Application for Hire.

**Liquor Licence** means any liquor licence or permit issued under the Liquor Licensing Act authorising the sale of liquor.

**Liquor Licensing Act** means the *Liquor Control Act 1988 (WA)*.

**Local Government Laws** means the LGA and its regulations, any planning scheme and any other statute, regulation, by-law or local law which applies to the Land.

**Noise Regulations** means the *Environmental Protection (Noise) Regulations 1997 (WA)*.

**Notice** means a notice, communication, consent, approval, request and demand.

**Party** means the Town or the Hirer according to the context.

**Patrons** means all persons who attend at or enter on any part of the Site for the purpose of viewing or participating in an Event, other than the Hirer.

**Permitted Use** means the use of the Site for the Event as set out in the Application for Hire.

**Personnel** means the Hirer's employees, officers, agents, contractors, performers and exhibitors.

**Rules** means rules, regulations, ordinances, notices, terms of entry, announcements or requirements made, given, published or enacted by the Town from time to time in respect of the Site.

**Quarry Amphitheatre Contract Permit to Work Form** means the form so named and located on the Town's website, as amended by the Town from time to time.

**Quarry Caterer** means Ultimo Catering & Events Pty Ltd (ACN 131 343 390) or such caterer appointed by the Town from time to time. (**Schedule** means a schedule to this Agreement.

**Security Bond** means the bond amount required by the Town for the hire of the Site.

**Site** means the Quarry Amphitheatre (including the café lawn and cavern) located at 1 Waldron Drive, City Beach 6015.

**State** means the State of Western Australia.

**Termination** means the expiry or the sooner determination of the term of this Agreement.

**Town** means the Town of Cambridge of 1 Bold Park Drive, Floreat Western Australian 6014.

**Working with Children Certificate** means a certificate or card that complies with the *Working with Children (Criminal Record Checking) Act 2004*.

**Volunteer** a person who does something, especially helping other people, willingly and without being forced or paid to do it.

## 1.2 Interpretation

In this Agreement, unless inconsistent with the context:

- (a) if a word or phrase is defined, then its other grammatical forms have a corresponding meaning;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a gender includes any gender;
- (d) headings are for convenience only and do not affect interpretation;
- (e) a reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure to this Agreement;
- (f) the word “includes” is not a word of limitation and does not restrict the interpretation of a word or phrase in this Agreement;
- (g) a reference to person includes a reference to:
  - (i) an individual, a body corporate, a trust, a partnership, a joint venture an, unincorporated body, governmental or agency, or other entity whether or not it is a separate legal entity;
  - (ii) that person’s personal representatives, successors and permitted assigns and transferees and a person, who novates this Agreement;
- (h) a reference to time is to Perth, Western Australia time;
- (i) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day;
- (j) a rule of construction does not apply to the disadvantage of a Party because the

Party was responsible for the preparation of this Agreement or any part of it;

- (k) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (l) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (m) a covenant entered into by more than one person is deemed to be entered into by those persons jointly and each of them severally.

### **1.3 Inconsistency with Statutory Provisions**

In the event of any inconsistency between:

- (a) an obligation, right or power of either the Hirer or the Town under this Agreement; and
- (b) an obligation, right or power of the Town under the Local Government Laws,

then the obligation, right or power of the Town under the Local Government Laws prevails.

### **1.4 No Fettering**

Nothing in or arising out of this Agreement in any way:

- (a) diminishes the Town's rights and powers; or
  - (b) fetters any discretion that the Town has,
- under the Local Government Laws.

## **2. Hiring of Venue**

### **2.1 Grant of Licence**

- (a) The Town grants the Hirer a non-exclusive licence to use the Licence Area, and the associated services and facilities of the Site, during the Licence Period for the Permitted Use on the terms of this Agreement.
- (b) The Hirer accepts the licence on the terms of this Agreement and acknowledges the licence is limited to the Licence Area, but the Hirer's responsibility extends to all areas at the Site in any way used by the Hirer for the hiring.

### **2.2 Security Bond**

The Security Bond must be paid by the Hirer in accordance with Schedule 1 – Fees and Charges.

### **2.3 Conditions**

This Agreement only becomes binding once:

- (a) the Application for Hire is signed by the Hirer;
- (b) the Application for Hire is approved and signed by the Town,
- (c) the Town receives the Security Bond by way of cleared funds; and

(d) The Town receives a copy of the Hirer's Emergency Evacuation Plan if required (See 8.3 Evacuation procedures)

## **2.4 Use of Licensed Area outside Licence Period**

- (a) The Hirer acknowledges and agrees that the Town reserves the right to grant to any other person a licence to use any part of the Site (including the Licence Area) either exclusively or in common with others for such purposes for such periods and upon such terms and conditions as the Town in its discretion may think fit.
- (b) If the Town grants to any person a licence to use all or any part of the Site exclusively outside the Licence Period, the Hirer will have no right to access or use the Site (or any such part) during the periods in which the other person is authorised to use the Site (or relevant part) exclusively.

## **2.5 Subletting**

The Hirer must not sub-let any space within the Licence Area.

## **2.6 Hirer's obligations extend to employees etc.**

The Hirer acknowledges and agrees:

- (a) to procure that each of its Personnel do not do or omit to do any act or thing which would cause the Hirer to breach the Hirer Obligations;
- (b) the Hirer must ensure that its Personnel are made aware of the relevant Hirer's Obligations; and
- (c) the Hirer remains liable to the Town for any acts or omissions of its Personnel.

## **2.7 Rehearsals**

- (a) The Town and the Hirer may agree in writing dates and times other than the Licence Period and charges for use of the Site for rehearsals or for setting up of the Site for the staging or performance of an Event. Unless otherwise agreed, that use will be on the same terms as this Agreement.
- (b) The Hirer must reimburse the Town for any additional costs or expenses incurred as a result of that use, including any additional staff or personnel of the Town required to attend to ensure safe and secure use of the Site.
- (c) No unauthorised Personnel shall be permitted to attend the Site for a rehearsal without the prior consent of the Town.

## **2.8 Non-exclusive use**

- (a) The Hirer acknowledges that:
  - (i) the Site may be used for preparation for and staging of events and engagements other than an Event; and
  - (ii) in order for the Site to operate as efficiently as practicable it may be necessary for the use or availability of services and facilities of the Site including, without limitation, entrances, exits, truck ramps, receiving areas, marshalling areas, storage areas, passenger or freight elevators and concession areas to be scheduled or shared.

- (b) The Town may establish schedules for the use and availability of services and facilities at the Site and, if necessary, arrangements for sharing services and facilities. The Hirer must comply with any schedules established and co-operate in any sharing arrangements and to work cooperatively with other authorised users of the Site in order to minimise any conflict over the use of or access to the Site.
- (c) The Hirer acknowledges and agrees that in the case of an emergency or natural disaster affecting the Site or surrounding area the Town will have unfettered access to, and use of, the Site if required by the Town.
- (d) The Town reserves to itself and to the employees, agents and independent contractors of the Town the right to enter at any time any part of the Site, Licence Area, including any room at any time and for any purpose, including undertaking any works.

## **2.9 Accessing the Site**

- (a) Prior to accessing the Site and at least 15 Business Days prior to an Event the Hirer and its relevant Personnel must complete:
  - (i) the Induction Form (which includes the Contractor Work Site Rules & Regulations); and
  - (ii) the Quarry Amphitheatre Contract Permit to Work Form, and provide signed copies to the Town
- (b) The Hirer must ensure that its Personnel are made aware of, and procure their compliance with, the conditions of this Agreement relating to use and access to the Site.

## **2.10 No warranties**

To the extent permitted by Law, the does not expressly or impliedly warrant that:

- (a) the Site is now, or will remain suitable or adequate for all or any of the purposes of the Hirer, or for the Permitted Use;
- (b) that any fixture or fitting is or will remain in working order and condition; and
- (c) that the Town will issue any consents, approvals, authorities, permits or licences required by the Hirer under any Law for its use of the Site.

## **3. Fees and Payments**

### **3.1 Licence Charges**

- (a) The Hirer agrees to pay all fees and charges associated with the hire of the Licence Area and comply with all payment terms as set out in this Agreement.
- (b) The Hirer must pay to the Town the Licence Fees at the times as set out in Schedule 1 – Fees and Charges.
- (c) Unless specified in this Agreement, the Hirer must pay any invoice issued by the Town within 30 days of the date of the invoice.
- (d) In instances when the Hirer has not previously used the venue in the preceding

season, the Hirer agrees to upfront payment of fees and charges associated with the hire of the Licence Area.

### **3.2 Hirer charges right to Security Bond**

The Hirer charges all its right, title and interest in respect of the Security Bond in favour of the Town as security for the Licence Fees and discharge of the Hirer's Obligations.

### **3.3 Town to set off Security Bond**

The Hirer authorises the Town at any time and from time to time, to deduct from and retain out of the Security Bond such amounts as the Town determines due and payable to it. The Town may apply or set off any deductions towards or against unpaid Licence Fees or damages for breach of this Agreement.

### **3.4 Town to repay Security Bond**

If the Hirer has complied in all respects with this Agreement and has discharged in full the whole of its liability to the Town under this Agreement, the Town will, within 10 Business Days after the completion of the Licence Period, repay the Hirer the Security Bond less any deductions made under clause 3.3.

### **3.5 Hirer to satisfy itself as to charges**

The Hirer warrants that before entering into this Agreement the Hirer has satisfied itself as to all charges which the Town is entitled to make under this Agreement.

## **4. General obligations of Hirer**

### **4.1 Presentation of Event**

The Hirer must:

- (a) supply and pay for all Personnel required for the proper presentation of an Event;
- (b) transport all personnel, properties, facilities and equipment necessary for an Event to and from the Site;
- (c) if the Hirer employs, uses or directs any person under the age of 18 years for any purpose, and must ensure its Personnel, hold a Working with Children Certificate and must produce them to the Town upon request; and
- (d) pay all government charges, taxes (including any goods and services tax or like taxes) and levies payable by the Hirer and due as a result of the Event by due dates for payment.

### **4.2 Unacceptable purposes**

The Hirer may not use the Site for any political purpose, incite or allow social unrest or violence whatsoever unless the Event has been expressly specified by the Hirer to the Town and approved. If the Hirer fails to specify that an Event is political or incites or allows social unrest or violence and the Town reasonably forms the view that the Event is political or incites or allows social unrest or violence, then the Town is entitled to cancel the Event or withhold from moneys otherwise payable by the Town to the Hirer, a reasonable amount to compensate the Town for injury or damage to its property, including any loss of goodwill for the Site.



#### **4.3 Collections**

No collections, whether for charity or otherwise, may be made or attempted to be made at the Site before, during or after an Event, without the approval of the Town.

#### **4.4 Compliance with rules and regulations of the Site**

The Hirer must:

- (a) comply with all reasonable requests, directions and Rules;
- (b) use every effort to direct Patrons to comply with the Rules and enforce those directions; and
- (c) not invite or knowingly allow any person, including a Patron, to breach the Rules.

#### **4.5 Jeopardising of licences**

The Hirer must not do or allow to be done anything, which may put at risk of suspension, forfeiture or non-renewal any current licence or permit required for the lawful management or operation of the Site.

#### **4.6 No smoking permitted**

The Hirer acknowledges that no smoking is permitted at the Site at all times, including the car park. The Hirer must:

- (a) ensure its Personnel and Patrons do not smoke at the Site; and
- (b) comply with any direction of the Town to ensure that no smoking occurs at the Site.

#### **4.7 Observance of legislation and government permits**

- (a) The Hirer must obtain, observe and perform at its expense all Authority permits, licences, consents and approvals required for the conduct of an Event or for any act or matter connected with the conduct of an Event and must comply with all applicable Laws.
- (b) The Hirer must provide a copy of any required permits, licences, consents and approvals to the Town upon request.
- (c) The Town reserves the right to cancel the Event by notice to the Hirer if the Hirer fails to obtain any required permits, licences, consents for the Event.

#### **4.8 Loss, damage or injury**

The Hirer must report to the Town any damage or loss to the Site, its facilities or equipment or any injury whatsoever to any person occurring in or about the Site in connection with the use of the Site as soon as the Hirer becomes aware of it. The Hirer must deliver a copy of the full details of the occurrence to the Town as soon as practicable after the occurrence.

## **5. Conduct of Events and Staffing**

### **5.1 Times of Events**

The Events to be held during the Licence Period must start and finish at the times and for the number of Patrons as specified in the Application for Hire.

### **5.2 Ticketing**

- (a) The Hirer is solely responsible for the selling of tickets to a ticketed Event.
- (b) The Hirer must perform all obligations owed to the purchasers of tickets.
- (c) The Hirer may sell tickets to an Event as reserved seating or unreserved seating in accordance with the Town's current maximum seating plan.

### **5.3 Industrial awards**

In the employment or engagement of its staff in the Site or in connection with the use of the Licence Area, the Hirer must comply with all applicable Laws.

### **5.4 Proper supervision**

At all times the Hirer's Personnel must be properly supervised and continuously under the direction and control of a person nominated by the Hirer for that purpose.

### **5.5 Security**

- (a) The Site is monitored 24 hours per day for security purposes and any unauthorised access by the Hirer or its Personnel that results in a security call out will be charged to the Hirer at the invoiced cost of the call out.
- (b) If the Town notifies the Hirer that security is required at an Event, the Hirer must, at the Hirer's expense, engaged a security company who complies with licence requirements under the *Security and Related Activities (Control) Act 1996 (WA)*.
- (c) The Hirer must not permit or allow any riotous, disorderly or improper conduct in the Site or any person who is guilty of riotous, disorderly or improper conduct to be or remain on or in the Site.

### **5.6 Authorised officer**

- (a) The Town will appoint a Duty Manager, at the cost of the Hirer.
- (b) The Hirer must not set up or dismantle the Event without the presence of a Duty Manager.
- (c) The Hirer and its Personnel will follow all lawful directions of the Duty Manager in respect of the Site.

### **5.7 Ushers**

- (a) The Town requires (for every ticketed event):
  - (i) a minimum of two ushers for every 200 Patrons;
  - (ii) a minimum of three ushers for Patrons between 200 - 350;
  - (iii) a minimum of four ushers for Patrons between 350 – 500; and

- (iv) a minimum of five ushers for Patrons over 500.
- (b) The Town has a list of prequalified ushers that the Hirer can engage at the cost of the Hirer.
- (c) The Hirer can engage their own ushers' with the approval of the Town, subject to the ushers:
  - (i) having completed the Town's Site induction within a year of the date of the Event;
  - (ii) being over the age of 18;
  - (iii) providing photographic identification to the Town one week prior to the Event;
  - (iv) being required to report to the Duty Manager at least 30 minutes prior to the start of an Event;
  - (v) being under the supervision and direction of the Duty Manager for the Event;
  - (vi) agreeing and performing tasks, including ushering, ticketing, cleaning, emergency evacuation and upholding customer service and safety standards as determined by the Town.

## **5.8 Personnel**

The Hirer acknowledges and agrees:

- (a) that the Hirer is responsible for the payment of all wages to the hiring of Personnel for the Event;
- (b) the Hirer must pay all costs, including costs of staff appointed by the Town that are associated with and required for the purposes of the Hirer's use, until such time as the Site is vacated; and
- (c) if the Hirer employs, uses or directs any person under the age of 18 years for any purpose must hold a Working with Children Certificate or Card.

## **5.9 Copyright**

- (a) 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 an Event.
- (b) The Hirer warrants to the Town that it will obtain and maintain all Copyright Licences required in associated with an Event.
- (c) The Hirer shall under no circumstances allow a video camera onto the premises for the purpose of recording performances or rehearsals without prior approval of the Town and without an approved Australasian Mechanical Copyright Owners Society Licence.
- (d) The Town reserves the right to take photographs for the Town's use of their web site archives, social media and advertising and reserves the right to apply for such authorisation directly from the artists or the artist's management.

## **5.10 Merchandising**

- (a) The Hirer has the sole right at its own cost to sell or distribute in the Site any merchandising excluding those items set out in clause 6.1.
- (b) The Hirer must pay to the Town a Commission of the gross revenue received from sales on all programs and merchandise sold at an Event at the Site.
- (c) The Hirer must provide to the Town evidence of the gross amount of sales of the merchandise within 5 Business Days of an Event.
- (d) The Hirer must pay the Commission within 5 Business Days of the Town issuing an invoice for the Commission amount due by the Hirer.

#### **5.11 Sound Restrictions**

- (a) The Hirer must comply with the Noise Regulations.
- (b) The Hirer will be solely responsible for any fines incurred for non-compliance of the Noise Regulations.
- (c) All live performances and or broadcasting of pre-recorded sounds using reinforcement systems must cease between the hours of 11:45 pm and 8:00 am.
- (d) Any private event where subwoofers are used must cease at 10:30 pm, however, background music may continue in accordance with the following sound levels:
  - (i) Monday to Friday between 8:00 am to 11:00 pm – 50 Decibels;
  - (ii) Saturday, Sunday and Public Holidays between 8:00 am to 11:00 pm – 45 Decibels; and
  - (iii) Monday to Sunday between 11:00 pm to 8:00 am 0 40 Decibels.
- (e) The Town appointed Duty Manager reserves the right to cease all noise pollution at the Site at their discretion.

### **6. Catering**

#### **6.1 Food and Beverages**

- (a) The Quarry Caterer has the sole right to sell or distribute in the Site all beverages (whether alcoholic or not), refreshment, food, confectionery and has the right to sell or distribute those products or services in any way it sees fit.
- (b) The Town has the sole discretion to permit the supply food and or beverages from sponsors of Events from time to time.
- (c) The Hirer must not:
  - (i) sell or distribute in the Site beverages (whether alcoholic or not) refreshments, food or confectionery in the Site; and
  - (ii) must not bring into receive or provide any such products or service in the Site.

- (d) The Hirer must make all catering arrangements for an Event directly with the Quarry Caterer.
- (e) The Hirer must pay all fees, charges deposits direct to the Quarry Caterer.
- (f) The Town is not liable, and the Hirer releases the Town from all liability and Claims, in relation to the catering arrangements at the Site.

## **6.2 Liquor Licence**

The Hirer acknowledges that Quarry Caterer is the holder of the Liquor Licence and the Hirer acknowledges and agrees:

- (a) that the Hirer will comply with the Liquor Licensing Act at all times and all directions from time to time of the Duty Manager of the Site;
- (b) that no smoking is permitted in any licensed areas in the Site; and
- (c) that the Hirer will not do or allow to be done anything which causes or could cause the Liquor Licence to be cancelled, suspended, forfeited, surrendered, terminated or in any way adversely affected.

## **7. Marketing and Publicity**

### **7.1 Posters, signs and advertising material**

The Hirer must not, without prior approval of the Town, display any posters, signs or advertising materials in:

- (a) any part of the Site; or
- (b) any other place which may bring action against or disrepute to the Town or the Site or be in breach of any relevant regulations.

The Town may display its own signage within the Site.

### **7.2 Publicity and advertising information**

- (a) The Hirer must submit all advertising and promotional material that promotes or advertises the Site, or which refers to the Site in any way, to the Town for approval before publication.
- (b) The Town or Site name or logo may only be used with the consent of the Town and in an approved format and the Town grants a non-exclusive, revocable licence (at the election of the Town in its sole discretion) to the Hirer for such use in connection with the Event only.
- (c) If the Town grants any discount on the charges under this Agreement, the Hirer must use the Town's name and the Site's logo on all promotional material, subject to the Town's prior written approval.
- (d) Advertising of the Event at the Site must not occur prior to payment of the Security Bond.
- (e) The Hirer must ensure that the format of ticket booking and Site details in any advertising or promotional material meets the Town's requirements.
- (f) The Town reserves its right in its absolute discretion to remove any promotional

material, including signage, at the Hirer's costs that is in breach of this Agreement, excessive or unsafe.

- (g) The Town services its right to display its own advertising material, or advertising material of other persons, at any time and for the Town to distribute to Patron's at the Event any promotional material of any kind.

### **7.3 Announcements during performances**

The Town may announce, describe and advertise over any sound system, closed circuit television system or display advertising or visual presentation facilities ('sound and display facilities') in the Site during the staging of an Event, including, without limitation, announcements, descriptions and advertisements concerning other or future events being or to be held in the Site or elsewhere. The Town reserves the exclusive right to use the Site's sound system and display facilities and all other advertising capabilities and facilities in and about the Site in any places, which in its opinion are desirable or appropriate.

## **8. Safety and Equipment**

### **8.1 Responsibility for Event**

- (a) The Hirer is responsible for the safe conduct of the Event and the safe and proper use of the Site, its facilities and equipment and must comply with any lawful direction of the Town in connection with the safe and proper use of the Site, facilities and equipment.
- (b) The Hirer must not obstruct any stair, exit or emergency access at the Site.

### **8.2 Emergency services**

- (a) If required by the Town, the Hirer must arrange at the Hirer's cost for St John Ambulance to attend the Event for the duration of the Event and Patron attendance.
- (b) The Hirer must not hinder or obstruct any member of the medical or nursing profession, police force, fire brigade, ambulance service, first aid service or other emergency service or any security officer employed in respect of the Site in the exercise of his or her duties in or about the Site.
- (c) If the Hirer or its Personnel or any Patron in or about the Site at any time:
  - (i) accepts or uses the services of a physician or surgeon; or
  - (ii) accepts or uses any ambulance service or any service in connection with any injury or sickness occurring to any person or persons while within or about the Site,

even if that service or those services are made available or obtained through the Town, the Hirer releases the Town and will hold the Town harmless from all responsibility or liability for the acts and conduct, or services rendered, of any physician or surgeon or ambulance service or other service.

### **8.3 Observance of evacuation procedures**

The Hirer must make itself familiar with, and must comply with, the Emergency Plan of the Site.

The Town will provide all Hirers with a site induction which will include but is not limited to, the fire risks; the trigger points; the exit points; and options for evacuation. Attendance at the site induction is mandatory for all Hirers. The Town will provide Hirers with a range of dates in which they can participate in the site induction.

As part of the application process, the Hirer will be provided with a copy of the Town's Quarry Amphitheatre Emergency Plan which may be used to support the development of their own event specific bushfire emergency evacuations plans, if required.

Fire danger triggers – On days of Extreme and Catastrophic Fire Danger Ratings (FDRs), the QA will be closed to staff and the public. In the instance of a Total Fire Ban, and the FDR is very High or Severe, only essential staff are allowed onsite.

### **8.4 Amphitheatre equipment**

- (a) The Hirer must deliver to the Duty Manager no later than 15 Business Days prior to an Event the full particulars of the Hirer's technical, staging and labour requirements and must notify the Town of any subsequent change to these requirements.
- (b) The Town may make available at the request of the Hirer and at the Hirer's cost any such facilities, furniture, fittings, equipment and services. The Hirer must satisfy itself as to the suitability of such facilities, furniture, fittings, equipment and services and the Town makes not warranties as to their fitness for purpose or quality.
- (c) All facilities, furniture, fittings, equipment and services of the Town, remains the property of the Town.
- (d) The Hirer acknowledges and agrees that the Town does not provide a stage or surface suitable for dancing at the Site, and any dancing that occurs at the Site on the stage is conducted at the Hirer's and its Personnel's sole risk.

### **8.5 Hirer's equipment**

- (a) The Hirer must not without the prior approval of the Town:
  - (i) install or bring into the Site any additional electrical installation equipment or fittings;
  - (ii) install or bring into the Site any flammable, explosive or other dangerous goods;
  - (iii) install or bring into the Site any equipment or temporary decorations or furnishings;
  - (iv) suspend or permit to be suspended any object or thing from the ceiling or from any wall of the Site; or
  - (v) bring into the Site any scenery curtains, equipment or other property, which has not been fire-proofed or is not maintained in a fire-proofed condition in accordance with applicable regulations or standards in Western Australia or

as prescribed by the Town from time to time.

- (b) Any rigging, electrical connections or other work will be performed by the Hirer or under the supervision of the Duty Manager, its staff or agent.
- (c) 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 Town and the Hirer must submit upon request, such equipment for inspection and approval by the Town.
- (d) If external equipment is hired for the Event at the request of the Hirer, the cost of the hire, delivery, removal and installation of this equipment will be borne by the Hirer.
- (e) Any electrical equipment brought into the Site must be tested and tagged as per applicable Australian Standards any relevant Laws. Any electrical equipment identified by the Town as being potentially unsafe will be disconnected and removed from the Site.

## **8.6 Safety**

- (a) At the request and direction of the Town the Hirer must, at its own cost, submit a Risk Management Report to the Town at least 15 Business Days prior to an Event.
- (b) The Hirer must ensure that all of the equipment or materials of any kind it brings into the Site are used, installed, stored and maintained in accordance with any prevailing safety standards, regulations or requirements.
- (c) The Hirer must ensure that in staging an Event, it complies with any prevailing safety standard or requirements.
- (d) The Hirer must ensure that its Personnel are appropriate skilled and trained in the use of the relevant equipment and observe all safety requirements.
- (e) The Hirer must apply for, obtain and maintain all registrations, licenses, approvals or consents which are required in respect of the use or operation of any equipment or materials or for the staging of an Event.
- (f) The Town may in its absolute discretion require the Hirer to satisfy additional safety or technical requirements determined by the Town.
- (g) Nothing in this agreement requires the Town to undertake safety or technical inspections. If the Town does undertake an inspection, the Hirer remains responsible for its obligations under this agreement and is not released from any duty of care, which it may owe to the Town or to any other person.
- (h) The Town may retain technical advisers and experts to advise it on the staging of an Event. The Hirer must pay the fees of such advisers and experts.

## **8.7 Equipment ingress and egress**

The Hirer must only use entrances and exits designated by the Town for moving in or out equipment or other materials and must comply with all regulations and directions of the Town as to access and vehicle movements and load limits.



### **8.8 Towns directions**

The Town is not required to give any directions in relation to the safe and proper use of the Site, its facilities and equipment. The fact that the Town or its staff or agent supervise any work or give any directions will not release the Hirer from any of its obligations under this agreement nor will it release the Hirer from any duty of care which it may owe to the Town or to any other person.

### **8.9 Design of works and structures**

The Hirer warrants to the Town that all due care has been exercised in the design of any works or structures to be constructed in the Site and that all due care will be exercised during construction. The Hirer indemnifies and must keep the Town indemnified against any loss, damage, claim, demand, penalty, fine or charge which is suffered by or imposed on the Town directly or indirectly because of any defect of design, defect in construction, defective materials or faulty workmanship.

### **8.10 Plant and electrical installations**

- (a) The Hirer must not carry out any work on, interfere with or overload any fittings, connectors or equipment relating to the supply of water, gas, electricity, heating, cooling or lighting to any part of the premises.
- (b) Unless caused by negligence of the Town, the Town shall not at any time be liable for the failure or non-working of the air-conditioning plant, the electric plant and/or the electrical fittings contained in the Site or the non- supply of electric power or water to the Site.

### **8.11 Alterations**

- (a) The Hirer will not make any alterations or additions to the structure or the fittings or decorations or furnishings or facilities or equipment of the Site.
- (b) The Hirer will not provide any additional decoration or furnishings to the Site without prior approval from the Town.
- (c) The Hirer must not install portable toilets or any other additional sanitary services without the prior approval of the Town. The Hirer agrees to contract these services to a third party and meet all costs relating to approved installation of additional sanitary services.
- (d) The Hirer must not nail, screw, staple or adhere anything to the stage and agrees to only use the stage anchor points provided. Any damages or cleaning required as a result of failure to follow this direction may be charged to the Hirer at the invoiced cost.
- (e) The Hirer must not paint production items on the stage or in the Cavern at any time. Any damages or cleaning required as a result of failure to follow this direction may be charged to the Hirer at the invoiced cost.

### **8.12 Traffic management**

The Hirer must not bring into the Site any large articulated vehicle without the prior approval and arrangements with the Town. All vehicular movement on site must be managed in line with strict traffic management protocols.

### **8.13 Comply with legislation and regulations**

- (a) The Hirer must use the Site and facilities only for lawful purpose.
- (b) The Hirer must punctually comply with and observe at the Hirer's cost all Laws which relate to the Site its facilities and equipment.
- (c) Except to the extent directly caused by the Town's negligence or wilful or unlawful conduct, and to the extent permitted by Law, the Hirer releases and indemnifies and agrees to keep indemnified the Town from and against all Claims for or in respect of which the Town is or may be or become liable by reason of the *Occupational Safety and Health Act 1984 (WA)*, in respect of the Site or the Permitted Use.

## **9. Prohibited Activities**

### **9.1 Vehicles**

The Hirer and its Personnel must ensure that no vehicles are to be driven on the stage at any time.

### **9.2 Animals**

If an animal is required for an Event, the Hirer must (with the exception of Assistance Animals):

- (a) obtain consent from the Duty Manager prior to an Event for the animal to be in the Site;
- (b) demonstrate that the animal is expertly cared for;
- (c) be the full responsibility of the owner that the animal; and
- (d) be able to demonstrate that the owner complies with any relevant animal protection and welfare requirements.

### **9.3 Naked Flames**

The Hirer acknowledges that no naked flames are permitted in any part of the Site (including all external areas such as balconies, courtyards, grassed or landscaped areas and the car park) unless approved by the Town.

### **9.4 Cooking**

The Hirer acknowledges that no cooking is permitted in any part of the Site (excluding any cooking by the Quarry Cater) without prior approval of the Town.

## **10. Vacation of Site**

### **10.1 Hirer to vacate**

Before the time specified in Application for Hire, and if no time is stated before 9.00am on the day immediately following the cessation of the Event, the Hirer must, and failure to do so the Hirer may incur additional charges, remove from the Site:

- (a) all of its additional equipment, decorations or furnishings;

- (b) all of its additional electrical installation, equipment or fittings and return the Site's lighting system to "house" settings to the satisfaction of the Town; and
- (c) all sets, costumes, properties and equipment and all other goods of any kind which have been brought into the Site by the Hirer, its servants, agents, invitees or licensees.

## **10.2 On vacation**

On vacating the Site the Hirer must:

- (a) vacate the dressing rooms and the stage area of the Site within two hours following the Event;
- (b) leave the Site and its facilities and equipment in a clean, safe and proper condition to the reasonable satisfaction of the Town or Quarry Amphitheatre Management;
- (c) restore at its own cost all sound, lighting and staging apparatus to the basic standard arrangement prescribed by the Town from time to time and to the reasonable satisfaction of the Town;
- (d) if required by the Town, remove any alterations or additions made to the structure, fittings, facilities or equipment of the Site and, at its own cost, restore the structure, fittings, facilities or equipment to its original state before the alteration or addition was made.

## **10.3 Failure to remove goods, equipment etc.**

If the Hirer does not comply with any of its obligations under clauses 10.1 or 10.2:

- (a) the Town takes no responsibility and the Hirer releases the Town from any liability or Claim in respect of the Hirer's equipment remaining at the Site after the designated finish time;
- (b) the Town may, in its discretion and at the sole risk and expense of the Hirer:
  - (i) remove or have removed from the Site any item left by the Hirer and store them or arrange for them to be stored; and
  - (ii) remedy any other default by the Hirer;
- (c) the Hirer must pay to the Town additional Licence Fees of an amount equal to:
  - (i) the storage charges incurred by the Town or, if the items are stored by the Town itself, the normal prevailing market charges payable in respect of that storage;
  - (ii) charges for movement of the items elsewhere and associated costs of movement or storage, including insurance, incurred by the Town or, if the Town moves the items itself, the normal prevailing market charges payable in respect of that movement;
  - (iii) the Town's staff costs involved in moving and storing the items if not already recovered under paragraphs (i) or (ii); any other costs incurred by the Town in remedying any default by the Hirer if not already recovered under paragraphs (i), (ii) or (iii); and

- (iv) if:
  - (A) in the opinion of the Town, the items left by the Hirer cannot practicably be removed or stored; or
  - (B) there are defaults which in the opinion of the Town cannot be practicably remedied by the Town,

an amount equal to the average Event charge applicable to the hiring for each 24 hour period or part period after the end of the Licence Period where the remaining equipment interferes with another event.

#### **10.4 Repairs**

The Hirer must, at the Hirer's own expense, repair or reinstate, or pay the cost on demand to the Town to repair or reinstate any damage to the Site, or its facilities, furnishings, services or equipment, to the standard of repair and condition that the area, facilities or equipment were in immediately before the damage occurred, where such damage is sustained, caused or contributed to by the use by the Hirer or any Personnel or Patron of the Licence Area or the Site. If any equipment is damaged beyond repair the Hirer must pay to the Town the replacement cost of that equipment.

#### **11. Insurance**

- (a) Unless otherwise waived by the Town, the Hirer must maintain at its own cost and expense the following insurance policies with a reputable insurer (including adequate insurance for any volunteers working at the Event for the Hirer):
  - (i) Public & Products Liability insurance for a minimum amount of \$20,000,000 in respect of any one occurrence, in the aggregate for products liability and unlimited in the aggregate for public liability; and
  - (ii) all workers' compensation insurance required by Law.
- (b) The period of insurance must cover the Licence Period and any practices, rehearsals or set up under clause 2.7 and the vacation of the Site after the Event.
- (c) To the extent that the Hirer's insurer agrees, the policy effected under paragraph (a) (i) must nominate the Town as an insured and include a cross liability clause.
- (d) The effecting of insurance shall not limit the liabilities or obligations of the Hirer under this Agreement.
- (e) Prior to the Hirer being provided entry to or use of the Site the Hirer shall provide to the Town a certificate of currency.

#### **12. Liability**

##### **12.1 Hirer's Indemnity**

- (a) The Hirer indemnifies and keeps indemnified the Town from and against all Claims, including legal and investigative costs and expenses, relating to any:
  - (i) loss (including loss of use), injury or damage of or to any property;

- (ii) death or illness of or injury to any person;
- (iii) to the extent permitted by Law any inquiry, investigation, notice, direction, order, proceeding or prosecution instituted under or in relation to the *Occupational Safety and Health Act 1984 (WA)* or the *Coroners Act 1996 (WA)*; or
- (iv) any loss, damage or injury caused by any employee of the Town when acting under the direction or control of the Hirer in connection with the Permitted Use,

directly or indirectly caused by, arising out of, or in connection with the Hirer's or its Personnel's use of the Site.

- (b) The Hirer indemnifies and keeps indemnified the Town from and against all Claims, including legal and investigative costs and expenses, and any loss or damage suffered or incurred by the Town relating to:
  - (i) any breach by the Hirer of this Agreement;
  - (ii) any breach by the Hirer of any Copyright Licence; or
  - (iii) the Event, including any ticket sales, promotional materials or cancellation of the Event.

## **12.2 Limit on liability**

To the fullest extent permitted by Law, the Town will not be liable to the Hirer or its Personnel, and the Hirer releases the Town, from any Claims and for any loss or damage for any liability which may be suffered or incurred by the Hirer, or its Personnel or in respect of any goods or equipment owned, operated or hired by the Hirer or its Personnel resulting from:

- (a) any strike or other industrial action by any person or group of persons including, but not limited to, any employees or contractors engaged by or employed by the Town, its contractors or the Hirer;
- (b) any interruption or cessation in the supply of water or electricity or any other type of power or energy to the Site or failure of any equipment owned or operated or hired by the Town for the supply of water or electricity or any other power or energy to the Site;
- (c) any interruption or any interference in the use or enjoyment of the Site by the Hirer, during the course of or as a result of the doing of any of the acts or things the Town or its employees, agents and contractors are permitted to do under this Agreement;
- (d) any decisions of the Town under clause 15,

and otherwise, the Hirer releases the Town (and its employees, agents and contractors) to the fullest extent permitted by Law from all Claims relating to the Hirer's use of the Site, except to the extent such Claims directly arise from the wilful or unlawful act or omission of the Town.

### **13. Force majeure**

- (a) If in the opinion of the Town:
  - (i) there is an emergency at the Site due to an actual or imminent occurrence that causes or threatens to cause loss of life, injury, distress to people, danger to the safety of the public or any part of the public or destruction of or damage to property; or
  - (ii) the Site is required, requisitioned or resumed for the use of a government or public authority for any public purpose by reason of emergency; or
  - (iii) the Site is damaged, destroyed by an act of war or in the course of resisting or repelling such action, is being repaired, remedied or made good or attempts are being made to do so as a result of such action; or
  - (iv) the use of the Site for the Permitted Use is prohibited, obstructed or hindered by reason of any industrial action or act of God or flood or storm or fire or governmental order or direction or civic disorder; or
  - (v) there is any interruption or cessation in the supply of water, air- conditioning or electricity or any other power or energy to the Site; or
  - (vi) there is any failure of any other equipment owned, operated or hired by the Town which is essential for the operation of the Site; or
  - (vii) any event cause matter or thing occurs which is beyond the reasonable control of a Party, the Town may immediately:
    - (A) revoke or discontinue the hiring (as to whole or part) and terminate this Agreement; or
    - (B) postpone the period of use at the Hirer's cost to a later period determined by the Town in its absolute discretion.
- (b) If the Town revokes or discontinues the hiring under clause 13(a)(vii)(A), the Hirer must pay to the Town within 7 days all money otherwise owing by the Hirer to the Town (if any), and the Town may forfeit the Security Bond.
- (c) The Town shall not be liable for any loss or damage suffered by the Hirer as a direct or indirect consequence of the Town's decision to revoke or discontinue the hiring or termination of this Agreement.

### **14. Cancellation of Event**

#### **14.1 General**

- (a) The Town is not responsible for the interruption or cancellation of bookings due to circumstances beyond its control. The Town will not be liable for any costs related whatsoever to the cancellation of a booking.
- (b) If the Hirer wishes to cancel an Event, the Hirer must notify the Town in writing. Notice of cancellation and applicable cancellation fees are as follows:
  - (i) More than six months cancellation notice prior to the booking date, 0% of

the Venue Hire is charged to the Hirer.

- (ii) From six months to four months cancellation notice prior to the booking date, 25% of the Venue Hire fee is charged.
- (iii) From four months to two months cancellation notice prior to the booking date, 50% of the Venue Hire fee is charged.
- (iv) Less than two months cancellation notice prior to the booking date, 100% of the Venue Hire is charged.

#### **14.2 Inclement Weather**

- (a) In inclement weather conditions, the Hirer must inform the Town of the intention to cancel the Event at least one hour before gates open.
- (b) If the Event is cancelled due to inclement weather conditions and there is no booked alternative date (i.e. a rain night as set out in the Application for Hire), then the Hirer will be charged the full Venue Hire fee.
- (c) If the Event is cancelled due to inclement weather conditions and a rain night has been booked, the Hirer will be charged at the non-performance rate as detailed in the Schedule 1 –Fees and Charges for the cancelled booking.
- (d) In inclement weather conditions the Town reserves the right to delay or cancel part of, or cancel the whole Event subject to clauses 14.2(b) and 14.2(c).

#### **14.3 Fire danger triggers**

On days of Extreme and Catastrophic Fire Danger Ratings (FDR), the Quarry will be closed to staff and the public.

In the instance of a Total Fire Ban, and the FDR is very High or Severe, only essential Town of Cambridge staff are allowed onsite.

In the event that a booking has to be cancelled due to the Fire Danger Rating Hirers may:

1. Reschedule the event to a date that is mutually acceptable to the Town and the Hirer, with no financial penalty to the Hirer; or
2. Should 1 above, not be possible a total refund will be provided to the Hirer, with no financial penalty to the Hirer.

#### **15. Termination of Licence**

In addition to any other right to terminate this Agreement that the Town may have the Town may terminate this Agreement, the Town may terminate this Agreement by giving the Hirer two (2) days written notice where:

- (a) There has been a breach or default by the Hirer of any provision of this Agreement, including the failure to pay any sum due to the Town or the Quarry Caterer;
- (b) There is a serious likelihood, in the Town's opinion, that damage may be caused to the Site if the Hirer exercises their rights granted by this Agreement;
- (c) The Hirer is, or is likely to become, subject to an Insolvency Event;

- (d) In the opinion of the Town:
  - (i) the Event booked in the period of use conflicts with the balance of other events already booked at the Site;
  - (ii) the Event is contrary to the best interests of the Town or the public; or
  - (iii) the Event is offensive, dangerous or prohibited by Law.
- (e) If this Agreement is terminated by the Town under this clause, the Town may, without prejudice to any additional rights the Town may have, forfeit the Security Bond, retain any money paid to the Town by the Hirer and the Hirer must pay any amounts owing to the Town within 7 days.
- (f) The Town shall not be liable for any loss or damage suffered by the Hirer as a direct or indirect consequence of the Town's decision to terminate this Agreement.

## **16. General**

### **16.1 Governing law and jurisdiction**

The Parties agree that:

- (a) this Agreement is governed by the laws of State of Western Australia;
- (b) the Parties submit to the exclusive jurisdiction of the courts of the State of Western Australia, the Federal Court of Australia and the Federal Circuit Court of Australia (as applicable); and
- (c) a dispute or legal proceedings in relation to this Agreement must be held in Perth, Western Australia.

### **16.2 Severance**

If a provision of this Agreement is invalid, illegal or unenforceable, then to the extent of the invalidity, illegality or unenforceability, that provision must be ignored in the interpretation of this Agreement and the remaining provisions of this Agreement remain in full force and effect.

### **16.3 No waiver**

- (a) A Party granting a waiver of a right under this Agreement must give written notice of that waiver, to the Party, which benefits from the waiver.
- (b) A Party's failure, partial failure or delay in exercising a right relating to this Agreement is not a waiver of that right.

### **16.4 No merger and survival**

- (a) A Party's rights and obligations under this Agreement do not merge at Termination.
- (b) To the extent that a Party has not satisfied an obligation or it is a continuing obligation, that obligation survives Termination.



**16.5 Entire agreement**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, undertakings and documents.

**16.6 Relationship**

This Agreement does not create a relationship of employment, trust, agency or partnership between the Parties.

**16.7 No assignment**

The Hirer must not assign, dispose of or otherwise deal with its rights and interests in this Agreement, without prior written consent of the Town.

**16.8 Notices**

(a) Each Notice given under this Agreement:

- (i) must be addressed to the recipient Party using the contact details in the Application for Hire or as otherwise notified under this Agreement;
- (ii) must be delivered by hand, sent by prepaid post, facsimile or email to the recipient Party; and
- (iii) is taken to be received by the recipient Party:
  - (A) in the case of delivery by hand, upon delivery;
  - (B) in the case of prepaid post, on the 3<sup>rd</sup> day after the date of posting;
  - (C) in the case of facsimile transmission, at the time shown on the transmission confirmation report produced by the facsimile machine from which it was sent; or
  - (D) in the case of email, at the time it is delivered to the recipient Party's host server,

and if a Notice is taken to be received on a day that is not a Business Day or after 5.00pm in the place where the communication is received, it will be taken to be received at 9.00am on the next Business Day.

## Schedule 1 – Fees and Charges

## Schedule 2 – Emergency Evacuation Procedures

## Schedule 3 – Venue Guide