

# TERMS AND CONDITIONS

## Key Commercial Terms (summary)

- Hire Fees: payable in full on the date of this Agreement (see Clause 3) on the charging basis stated on the front page; no booking is confirmed until payment is received.
- Cleaning and Damage Deposit (refundable): payable on or before the date of this Agreement and refundable within 7 days after the last Session, less rectification costs; £30 where the Hirer's declared total attendance for the Session(s) is fewer than 50 persons and £100 where the Hirer's declared total attendance for the Session(s) is 50 persons or more (see Clause 7).
- Overstay: remaining on site more than 15 minutes beyond the booking period may trigger an additional booking fee for every hour or part thereof (see Schedule B).
- Cancellation: if the Hirer cancels (other than where expressly permitted), Hire Fees are not refundable, subject to the Owner's re-booking off-set mechanism (see Clause 4).
- VAT: amounts are exclusive of VAT where applicable (see Clause 11 – VAT).

## BETWEEN:

- (1) The Chichester City Arts Centre LLP, a company registered in the United Kingdom of Great Britain and Northern Ireland under number OC438898 whose registered office is at The Chichester City Arts Centre, St Bartholomew's Church, Mount Lane, Chichester, PO19 3DQ

(hereinafter known as the '**Owner**')

## AND

- (2) The Hirer whose name and address is shown on the Hire Agreement front page

(hereinafter known as the '**Hirer**')

## 1. Definitions and Interpretations

In this Agreement, except where the context otherwise requires, the following terms shall have the following meanings.

<b>'Agreement'</b>	means this Whole of Premises Hire Agreement including its Schedules;
<b>'Force Majeure'</b>	means any cause beyond the Owner's reasonable control
<b>'Hire Fees'</b>	means the hire fee(s) payable for the Hire Period as shown on the front page (including the stated basis of charging, e.g., per hour/per session/per booking) and any additional charges expressly stated on the front page or otherwise expressly agreed in writing;
<b>'Hire Period'</b>	means the period from (and including) the start date and time shown on the front page to (and including) the end date and time shown on the front page;
<b>'Premises'</b>	means the whole of the Owner's premises at the address shown in paragraph 1, comprising a Main Hall, Kitchen, toilets, Entrance Lobby and Reception area only to be hired to the Hirer;
<b>'Purpose of Hire'</b>	means individuals attending for the Purpose shown on the front page including others attending to spectate or to accompany any of those individuals;
<b>'Session'</b>	means the period between the start time and finish time on the Session Date. For block bookings of recurring Sessions, it means each period between those same times on each of the Session Dates;
<b>'Session Date'</b>	means the date on which the Premises are hired to the Hirer, and for block bookings of recurring Sessions it means the dates of each of those Sessions.

## 2. Session(s) Booked and extent of Hire

2.1 The Owner agrees to permit the Hirer to use the Premises for the Purpose of Hire, all as provided by this Agreement, for the Periods shown on the front page.

2.2 The hire for the Purpose of Hire extends to the whole of the Premises and includes means of access to the building comprising the Premises and all facilities within the Premises. The Hire Fees shall be consideration for that hire and use.

## 3. Payment of Hire Fees and Owner's cancellation for non-payment

3.1 The Hirer shall pay the Hire Fees as follows.

3.2 The full amount of Hire Fees shall be due and payable on the date of this Agreement.

3.3 No booking for any Session Date(s) will be deemed to have been made until the Owner receives the Hire Fees in full. If it is not received in full by the date required by Sub-Clause 3.2, the Owner may at any time thereafter cancel this Agreement immediately by giving notice to the Hirer.

## 4. Wrongful cancellation by Hirer

4.1 Except as otherwise expressly provided by this Agreement, if the Hirer cancels this Agreement, such cancellation shall be in breach of this Agreement ("Hirer's wrongful cancellation") and the following shall apply.

4.2 The Hirer shall not be entitled to return of any Hire Fees, and the Owner shall be entitled to retain them.

4.3 Where the Hirer is liable under Sub-Clause 4.2 for the total Hire Fees but, after the Hirer's wrongful cancellation, the Owner accepts any booking or bookings from a third party for any or all of the booked Sessions and is paid for those bookings by the third party, the Hirer shall remain liable under

Sub-Clause 4.2 but that liability shall be reduced as follows. The Owner will offset against that liability a sum equal to the payment received from the third party less a reasonable sum for actual expenses incurred by the Owner in obtaining such third-party booking. The Hirer will then instead be liable only for the amount for which it is liable under Sub-Clause 4.2 less the amount of that off set.

- 4.4 The amount due under, as the case may be, Sub-Clause 4.2 or 4.3, shall become due and payable upon demand by notice given by the Owner.

## 5. **Owner's cancellation**

- 5.1 Subject to the following provisions of this Clause 5, where there is a cancellation under this Clause 5, the Owner will return to the Hirer all amounts previously paid by the Hirer under this Agreement as a deposit, balance or special damage deposit, the return of those payments shall be without any deduction by the Owner, and it shall be without any further or other liability of the Owner to the Hirer.

- 5.2 The Owner may cancel this Agreement at any time by notice to the Hirer where it reasonably anticipates that due to Force Majeure which has occurred, it will not practicably be able to:

- 5.2.1 make the Premises available for a single booked Session; or

- 5.2.2 where there is block booking of Sessions, make the Premises available for one or more or all of those booked Sessions.

- 5.3 The Hirer shall remain liable for, and the Owner may deduct from the amount returned to the Hirer under Sub-Clause 5.1, the Hire Fees for the uncancelled Session(s) falling at any time during the Hire Period.

- 5.4 The Owner may cancel this Agreement at any time by notice to the Hirer where the Hirer is in material breach of any provision of this Agreement. The Owner shall be entitled to set off against and deduct from the amount to be returned by it pursuant to Sub-Clause 5.1 both the Hire Fees for all such Sessions as have begun or been completed at the time of the notice and any amount or part of such amount for which the Hirer is liable under Sub-Clause 9.4.

## 6. **Hirer's permitted cancellation**

- 6.1 The Hirer may terminate this Agreement at any time by notice to the Owner if the Owner commit any material breach of a material term of this Agreement and, if such breach is remediable, fails to remedy that breach within a period of 14 days after the Hirer gives notice to the Owner to do so. If the Hirer so terminates this Agreement, the Owner shall return to the Hirer all Hire Fees previously paid less such Hire Fees paid for Sessions which have been completed prior to the date when the termination takes effect.

## 7. **Payment of refundable Cleaning and Damage Deposit**

- 7.1 The Hirer must pay a refundable cleaning and damage deposit (the "Cleaning and Damage Deposit") on or before the date of this Agreement to cover any loss or damage to the Premises or

Owner's contents thereof caused by either the Hirer or anyone attending or involved in any Session. ("Damage" for this purpose includes soiling needing rectifying by cleaning.) The Cleaning and Damage Deposit is: (a) £30 where the Hirer's declared total attendance for a Session is fewer than 50 persons; or (b) £100 where the Hirer's declared total attendance for a Session is 50 persons or more. The Hirer must provide its declared total attendance for each Session on the front page or otherwise in writing before the booking is confirmed; if the Hirer later increases its declared total attendance for any Session such that a higher Cleaning and Damage Deposit applies, the Hirer must pay the difference immediately on demand. Where more than one Session is booked, the Cleaning and Damage Deposit payable shall be the higher amount applicable to any of the Sessions (based on the Hirer's declared total attendance for each Session). No booking will be deemed to have been made until the Owner receives the Cleaning and Damage Deposit in full.

- 7.2 The Owner will repay the Cleaning and Damage Deposit after deducting the cost of rectifying any such damage or loss caused. The repayment will be made within 10 working days after the booked Session has taken place or, when it has been cancelled and will not take place, within 10 working days after the cancellation occurs. If the Cleaning and Damage Deposit is depleted by a deduction under this Sub-Clause 7.2 but the deduction is insufficient to meet the full cost of rectifying the damage or loss caused, the remainder of that cost will be claimable under Sub-Clause 9.4. For the purpose of this Sub-Clause 7.2, where more than one Session is booked "Session" means in each case the last of the Sessions.

## 8. **Conditions to be observed by the Hirer**

- 8.1 The Hirer undertakes to observe and perform the provisions set out in Schedule B and to ensure that all persons attending or using the Premises also do so, and in Schedule B "Hirer" includes all of those persons.

## 9. **Liability**

- 9.1 The Owner does not represent or warrant that any or all of the Premises, or any facilities, or access to or exit from any of them, are safe, adequate, or suitable for the Purpose of Hire.

- 9.2 The Hirer acknowledges that except in so far as any personal injury to or death of any person in or about any part/s of the Premises is caused by the negligence of the Owner or any person for whom it is responsible, and subject to Sub-Clause 9.6, the Hirer is solely:

- 9.2.1 responsible to ensure that all of the Premises and other facilities and access to and exit from them are safe, suitable, and adequate for the Purpose of Hire; and

- 9.2.2 responsible and liable for any lack of safety or unsuitability or inadequacy of, any of the Premises or other facilities or access to or exit from any of them.

- 9.3 Subject to Sub-Clause 9.6, the Owner accepts no responsibility or liability for loss of or damage to any

items brought into or left or stored in any part/s of the Premises by the Hirer;

- 9.4 Subject to Sub-Clause 9.6, the Hirer hereby agrees to be liable for and indemnify and keep indemnified the Owner from and against all actions, claims, demands, costs, expenses, liabilities, loss, delay, damages or other financial detriment, brought, made or awarded against or incurred by the Owner (directly or indirectly) arising from:
- 9.4.1 any damage caused to any part/s of the Premises by the Hirer;
- 9.4.2 any loss of or damage caused by the Hirer to any property of the Owner in any part/s of the Premises;
- 9.4.3 any loss of or damage to any items brought into or left or stored in any part/s of the Premises by the Hirer;
- 9.4.4 any breach or non-performance of this Agreement or any negligent or other act or omission or default or breach of statutory duty by the Hirer;
- 9.4.5 any personal injury to or death of any person who is in or about any part/s of the Premises for the Purpose of Hire, except where caused by the negligence of the Owner or any person for whom it is responsible;
- 9.4.6 save to the extent that Sub Clause 9.4.5 applies and save where caused by the negligence of the Owner or any person for whom they are responsible, any use of any part/s of the Premises (whether or not for the Purpose of Hire) by the Hirer; or
- 9.4.7 save to the extent that Sub Clause 9.4.5 applies, any lack of safety or unsuitability or inadequacy of any or all of the Premises, or other facilities, or access to or exit from any of them.
- 9.5 In Sub-Clauses 9.3 and 9.4, "Hirer" includes those acting on its behalf (including employees, contractors, volunteers or agents), or others attending or involved in any Session
- 9.6 Nothing in either this Clause 9 or any other provisions(s) of this Agreement shall exclude or in any way limit either party's liability for death or personal injury caused by its own negligence or its liability for fraud or fraudulent misrepresentation or any other liability which cannot be limited or excluded by law.

## 10. Insurance

- 10.1 The Hirer, at its own cost, will arrange and maintain in force insurance covering for the whole Hire Period all its risks and liabilities under this Agreement including such insurance as is necessary in respect of any items brought to or into the Premises and for liability arising out of any defect or accident caused whether directly or indirectly by such items.
- 10.2 The Hirer will at its own cost, obtain from a reputable insurance company and maintain in force for the whole Hire Period Public Liability Insurance and Third Party Liability Insurance, such insurance to include cover for personal injury and property damage, including damage to the Premises and the acts and omissions of the Hirer, those acting on its behalf including employees, contractors, volunteers and agents, and those attending or involved in any

Session. Such insurance must have a limit of indemnity of at least £5,000,000 for any one accident or occurrence.

- 10.3 The Hirer will produce to the Owner on the date of this Agreement and thereafter as and when requested from time to time by the Owner sufficient evidence to demonstrate that the insurance which the Hirer is required by this Agreement to take out and maintain is current and valid, including copies of receipts for premiums paid.

## 11. Miscellaneous

### 11.1 Force Majeure

The Owner shall not be in breach of this Agreement by reason of, or liable for, any failure to perform its obligations under this Agreement if such failure results from Force Majeure.

### 11.2 VAT

All amounts payable by the Hirer are stated in this Agreement exclusive of Value Added Tax (VAT). Where VAT is chargeable on any such amount it shall be added at the current rate applicable at the time. Reference in this Agreement to any amount being payable or returnable means that amount together with that VAT.

### 11.3 Assignment

This Agreement is personal to the Hirer and therefore none of its obligations or benefits under this Agreement are transferable by it. The Owner may assign or transfer any of its rights or obligations under this Agreement at any time.

### 11.4 Third Party Rights

The parties agree that a person who is not a party to this Agreement has no right arising solely by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement.

### 11.5 Notices

All notices given under this Agreement must be in writing and addressed and sent by ordinary pre-paid post to a party at its address given in this Agreement, and it shall be deemed to have been served within two business days of posting.

### 11.6 Waiver

The failure to exercise, or any delay in exercising, any right or remedy under this Agreement shall not amount to a waiver of that or any other right or remedy nor shall it preclude or restrict any future exercise of that or any other right or remedy.

### 11.7 Entire Agreement

This Agreement is the whole agreement between the parties and it supersedes any previous discussion, arrangement, warranty, representation, understanding, or agreement between them relating to its subject matter.

### 11.8 Nature of Arrangement

This Agreement constitutes permission only to use the Premises and it confers no tenancy or other right of occupation on the Hirer, and no relationship of landlord and tenant exists between the Owner and the Hirer.

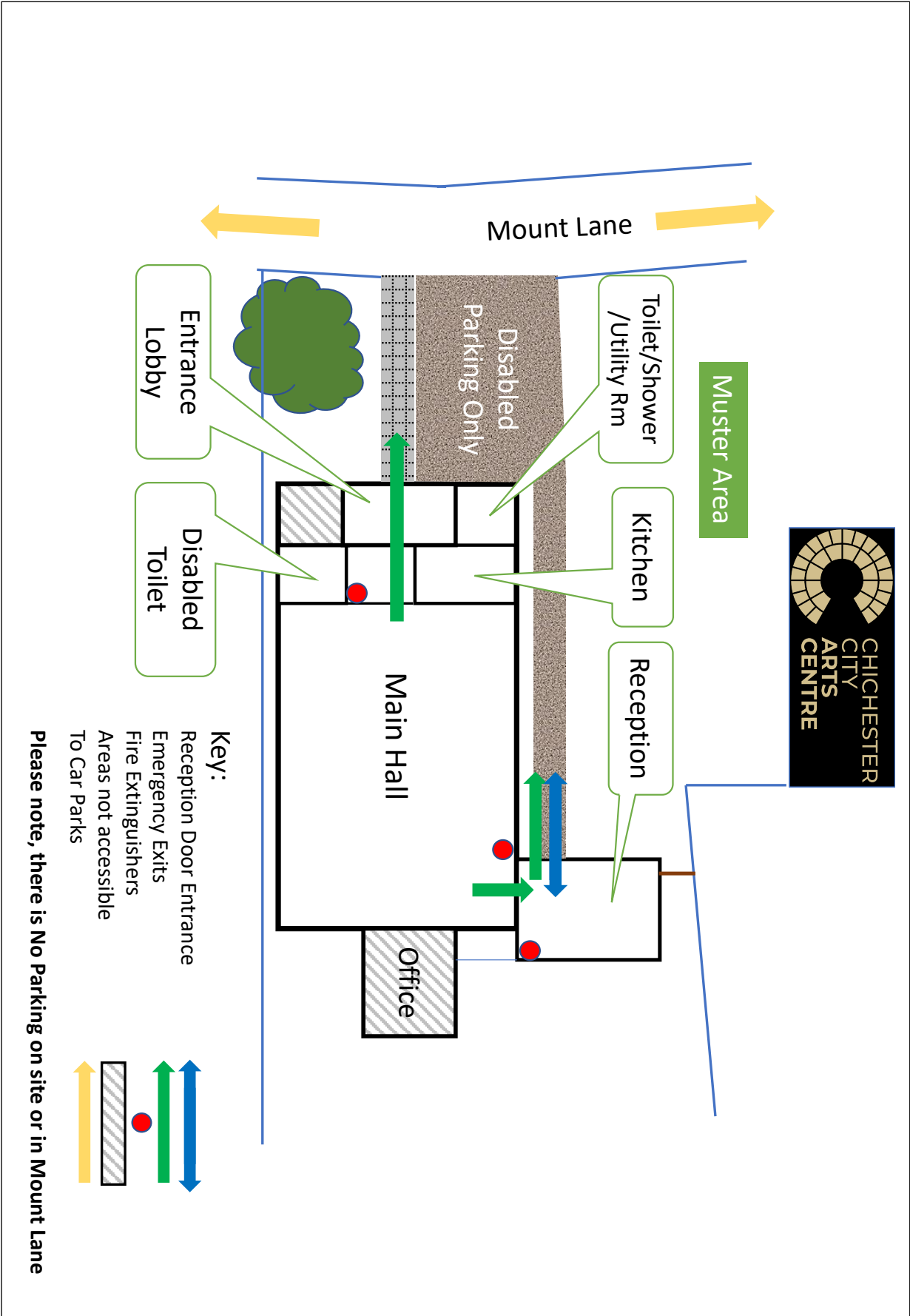
### 11.9 Variation

No variation to this Agreement shall be effective unless agreed in writing and signed by or on behalf of the Owner and the Hirer

### 11.10 Law and Jurisdiction

This Agreement shall be governed by English law and any dispute shall be subject to the exclusive jurisdiction of the courts of England & Wales.

**SCHEDULE A – the Premises**



## **SCHEDULE B - Conditions to be met by Hirer - Restrictions/prohibitions.**

The provisions referred to by Clause 8 are as follows -

### The Hirer will NOT:

1. use the Premises otherwise than for the Purpose of Hire;
2. sublet or share occupation or use of any or all of the Premises;
3. use the Premises for any unlawful purpose or in any unlawful way;
4. use the Premises for any immoral purpose or in any immoral way;
5. use the Premises in any way which could damage the reputation of the Owner;
6. remain on site for more than 15 minutes beyond the agreed booking period. If so, the Owner reserves the right to charge an additional booking fee for every hour or part thereof that the Hirer overstays on site.
7. place any signs in, at, or on the Premises without the prior written consent of the Owner;
8. use any equipment in the Premises without the prior consent of the Owner;
9. alter, add, interfere with or remove any of the fixed furniture, fittings, lighting, heating, power or other equipment or appliances or other items in or at the Premises and will not instal in or at the Premises any of the foregoing items;
10. drive any nail, screw or other fixing or fastening into any wall, floor, or furniture of the Premises or use any adhesive tape, glue or blue tack or equivalent on or in the Premises without the prior consent of the Owner;
11. bring to or into the Premises any source of electrical power or energy or any form of heating;
12. cause or allow any naked flame, candle or incense sticks to be used in or at the Premises;
13. allow any smoking in or at the Premises;
14. cause or allow anything in or at the Premises giving rise to a health or safety risk;
15. cause any nuisance, disturbance, annoyance or inconvenience to the Owner or to the owners, occupiers or users of any neighbouring premises;
16. cause or allow any obstruction to any access into or exit from the Premises; specifically, not to park on the Premises or in Mount Lane without permission for the purposes of setting up and taking down etc.
17. cause or allow any damage to the Premises;
18. cause or allow any damage to any of Owner's equipment or property in or at the Premises;
19. for health and safety reasons, permit more than a maximum of 120 persons to be present in or at the Premises at any one time;
20. sell any books or literature or anything else in or at the Premises without the Owner's prior consent;
21. hold any raffle or other form of lottery in or at the Premises without the Owner's prior consent and any necessary licence;
22. make any audio or video recording in or at the Premises or broadcast from the Premises without the Owner's prior consent;

### The Hirer will:

1. keep the Premises clean and tidy, and return, stack/store safely and neatly all of the Owner' chairs, tables and other unfixed furniture and equipment to the Owner' storage location/s in or at the Premises;
2. remove from the Premises any rubbish left;
3. remove from the Premises any equipment or other items brought in by the Hirer;
4. make good any damage caused to the Premises or to anything in the Premises;
5. ensure that all electrical equipment used at the Premises which is provided by the Hirer meets current safety standards and has current Portable Appliance Testing (PAT) and that proof of such is provided to the Owner on request;
6. obtain and comply with in relation to the Premises any necessary copyright, entertainment or performing rights licences, and any other necessary licences or permissions for the Purpose of Hire;
7. be present at the Premises throughout each Session and provide overall supervision of each Session;
8. provide sufficient staff or others for the running, stewarding, overall supervision and any necessary further supervision of each Session;
9. be responsible for any failure by any individual who acts to supervise, manage, lead or run all or any part or aspect of a Session;
10. be responsible for the care and safeguarding of any children or vulnerable adults attending for or in connection with a Session;
11. ensure that the Premises are safe for the Purpose of Hire;
12. ensure that those attending the Premises for the Purpose of Hire leave in an orderly manner;
13. at the end of each Session, switch off all lighting and turn off hot water that the Hirer has switched on, shut all windows that the Hirer has opened, lock all doors, and return any keys to the Owner or their representative as instructed by the Owner;
14. comply with the Owner' reasonable requests or instructions from time to time in relation to the Premises including, but not limited to, any instruction regarding health and safety or noise level.