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## 2020 Adelaide FringeVIEW – Artist Terms and Conditions

This agreement sets out the terms and conditions on which the artist ('you') will participate in the Adelaide Fringe Incorporated's (ABN 71 660 859 461) ('Adelaide Fringe, us, our or we') online event viewing platform known as the "2020 Adelaide FringeVIEW".

### 1. Acceptance

- 1.1. By submitting any information or Content in relation to registering any online event in the 2020 Adelaide FringeVIEW (**Event**), you are accepting to be bound by the terms and conditions contained in this agreement.
- 1.2. This agreement applies to your participation in the 2020 Adelaide FringeVIEW, including the submission of your Event and any other Content.
- 1.3. This agreement is only for the 2020 Adelaide FringeVIEW and will end on 31 May 2020 at midnight, unless terminated earlier in accordance with this agreement.
- 1.4. You agree that this agreement is for the 'pilot' program of the 2020 Adelaide FringeVIEW, and is FREE to register, but this is subject to change at our discretion upon written notice to you.

### 2. Registration of Events

- 2.1. You must provide us with all information, materials, assistance, and Content as we request in relation to the registration of your Event.
- 2.2. We will provide you with a draft summary of the registration information detailing your Event(s) in the 2020 Adelaide FringeVIEW for publication on the Adelaide Fringe website, available to you via the Artists and Venue Registration (**AVR**) site. You must review, accept and confirm the details of you and your Event.
- 2.3. You are responsible for ensuring that all information and material that you provide us, including in connection with you and your Event, is accurate, complete, and not misleading in any way, and we are not liable for any error or omission or other fault in any information that you provide us.
- 2.4. You accept that there is a maximum of three Events that can be registered per artist in the first manifestation or pilot of 2020 Adelaide FringeVIEW.
- 2.5. Your registration in AVR cannot be changed once you submit your registration. Any requested changes after this time must be made in writing to [ticketing@adelaidefringe.com.au](mailto:ticketing@adelaidefringe.com.au). We cannot guarantee any changes can be made.
- 2.6. You agree that your Event registration will be live on the Adelaide Fringe website until **31 May 2020**, unless removed by us earlier in accordance with this agreement.
- 2.7. We will operate a rolling on-sale each Friday. You must complete your Event registration by 9am Monday of the same week to be included in the next on sale release that Friday (although while we will endeavour to register and list for your Event as soon as possible, we cannot guarantee that we will be able to include your registration in that Friday's sale release, in which case we will contact you to confirm an alternative date for on sale release of your Event).
- 2.8. We will not be liable for any errors or omissions or other fault in the registration and listing for your Event and you are responsible for ensuring all details are complete, accurate, and not misleading in any way.

### 3. Obligations in relation to the Video Hosting Platform (YouTube)

- 3.1. You agree that by participating in 2020 Adelaide FringeVIEW, video of your Event will need to be uploaded to and hosted on 'YouTube' at [www.youtube.com](http://www.youtube.com) (**YouTube**). Your use of YouTube to host your Event is at your

own risk, and we are not liable to you in connection with any act or omission of YouTube, including any unavailability or interruption in their service.

- 3.2. You are responsible for creating your account with YouTube, and uploading video of your Event to YouTube (which must occur prior to tickets for your Event being listed for sale by us).
- 3.3. You must comply with all requirements, guidelines, and terms of conditions of YouTube, including their terms of service and community guidelines, available at the following links:

□ [Terms of Service](#) | [Community Guidelines](#)

- 3.4. You agree that it is your responsibility to expire the link or take down the video of your Event from YouTube once 2020 Adelaide FringeVIEW has ended, if this agreement expires or is terminated, or if your Event is otherwise cancelled.
- 3.5. You agree that you must upload your Event to YouTube as an [unlisted video](#). The URLs of these unlisted videos will only be provided by us to customers who purchase tickets to the Event under this agreement.
- 3.6. You must not register any Event for which any part of the Content is available online already for free view via YouTube or any other website or platform.
- 3.7. You agree and acknowledge that the URLs to the unlisted videos of your Event are not unique to each purchaser of a Ticket, that you bear the risk that these URLs may be provided by a purchaser to other persons who have not purchased a Ticket from us, and that we are not liable to you whatsoever in connection with any viewing of your Event by persons who have not purchased a Ticket from us.

#### 4. Content requirements

- 4.1. You must provide us with all Content which will be reviewed and proofed by Adelaide Fringe and if any Content is deemed by us (at our discretion) to be inappropriate in any way, we reserve the right to change classification ratings, refuse to register your Event, or remove the registration of your Event.
- 4.2. Without limiting any clause in this agreement, you agree that you are solely responsible for your Content, and we are not liable to you in connection with any error, omission, or other fault in your Content.
- 4.3. You must ensure your Event and any other Content will be available on YouTube from the time of registration until the end of 2020 Adelaide FringeVIEW. Should your Event be removed from YouTube for whatever reason, customers may be entitled to a refund under this agreement.
- 4.4. Adelaide Fringe reserves the right to edit or not accept your Event or any Content, if we consider in our discretion that it contains any material:
  - 4.4.1. that is liable to promote or incite misogynistic, racial, ethnic, religious or homophobic hatred, or promotes hatred of any particular community or persons;
  - 4.4.2. that constitutes or encourages conduct that would be considered a criminal offence;
  - 4.4.3. that is liable to be considered defamatory language;
  - 4.4.4. that is detrimental to or likely to cause damage to Adelaide Fringe Inc.; or
  - 4.4.5. or is otherwise inappropriate for the general audience which the Adelaide Fringe website is intended.
- 4.5. You must self-rate your videos and provide basic user warning guidelines (i.e. disturbing content discretion is advised, violence, adult themes or adult nudity etc) appropriately based on Australian Classification Ratings and the advisory categories for films and video games – for more information and descriptions of the various ratings, find out more [here](#). Adelaide Fringe Rating Recommendations will be visible to customers on the Event listing on the Adelaide Fringe website. It is the customer's responsibility to check any event ratings and

warnings prior to the purchase of any content. Adelaide Fringe will not be liable for any unrated or mis-rated Content and you are solely responsible for the rating of your Content and labelling the Content with warnings and appropriate ratings.

- 4.6. You acknowledge you have read the [Broadcasting Services Act 1992](#), and that customers who purchase a Ticket they deem to be wrongfully rated or carry insufficient warning may complain to [e-Safety Commissioner](#). You are solely responsible for any such complaints and must indemnify and pay us on demand for any Liability we incur in connection with any such complaint.
- 4.7. You agree that if your Content is self-rated as 18+ you [must age restrict](#) your video on YouTube.
- 4.8. You agree that all video / digital Content must be pre-recorded, there will be no live stream element in any of your Content available for 2020 Adelaide FringeVIEW.

## 5. Sponsorship

- 5.1. You acknowledge that BankSA is the Principal Partner of the 2020 Adelaide FringeVIEW
- 5.2. You agree that you will not;
  - 5.2.1. seek or accept sponsorship or endorsement of any kind from a financial services provider other than BankSA with respect to any of your Digital Event(s) or any other aspect of your participation in the 2020 Adelaide FringeVIEW; and
  - 5.2.2. display, distribute, promote or advertise any financial services provider other than BankSA in conjunction with any aspect of your participation in the 2020 Adelaide FringeVIEW.
- 5.3. Any breach of clause 3.2 will result in the termination of this Agreement with immediate effect in accordance with clause 9.3.
- 5.4. You agree that your event information may be published and included on various BankSA managed initiatives. Initiatives will be announced via Artist Bulletins and AVR in the lead up to and during the 2020 Adelaide FringeVIEW.

## 6. Intellectual Property

- 6.1. You warrant that:
  - 6.1.1. your Event and all other Content does not infringe any Intellectual Property of any other person;
  - 6.1.2. you own, or have all necessary licenses, authorisations, or other approvals, in order to participate in the 2020 Adelaide FringeVIEW as contemplated by this agreement, including by making your Event available on YouTube and otherwise making your other Content available online;
  - 6.1.3. your Event and other Content comply with any terms and conditions of YouTube in connection with Intellectual Property rights; and
  - 6.1.4. you have the right to grant the licence of your Intellectual Property as contained in this agreement to us.
- 6.2. You agree to grant an irrevocable, royalty and fee free, licence for us to use any of your Intellectual Property in your Event or other Content for any purpose in connection with the 2020 Adelaide FringeVIEW, including any marketing, promotional, or advertising purposes, including to use, modify, adapt, reproduce, and publish. Artists and photographers will always be acknowledged by us in any use of your Intellectual Property.
- 6.3. We grant you a revocable licence for the duration of this agreement to use the Adelaide Fringe logo, website and ticketing information solely for the purpose of you promoting (including digital, and social media promotions) your Event, but you must not otherwise use, transfer, sublicense, or otherwise deal with the Adelaide Fringe logo, website and ticketing information or any other of our Intellectual Property. You agree

that your use of our Intellectual Property must be in accordance with the Adelaide Fringe Artist and Venue Style Guide available through AVR.

- 6.4. You must indemnify us and pay us on demand for any Liability we incur in connection with a breach by you of this clause 6 (including any warranty) or in connection with any infringement or claim that your Event or other Content infringes the Intellectual Property rights of any other person.

## 7. Selling Tickets

- 7.1. Once your Event is registered by us in accordance with this Agreement, we may sell Tickets to the Event via the FringeTIX website.
- 7.2. After purchasing a Ticket, buyers will be provided by us a URL to view the Event on YouTube.
- 7.3. You must not sell or authorise the sale of Tickets via any other means, and you agree that we have the right to conduct the exclusive sale, distribution and issue of all Tickets for your Event(s) through Adelaide Fringe's ticketing system 'FringeTIX':
  - 7.3.1. for ticket categories and prices as inputted by either Adelaide Fringe, or you into the AVR site;
  - 7.3.2. for selected customers associated with Adelaide FringeVIEW sponsors and Fringe Members as part of an exclusive pre-sale, from Midday 29th April to Midday 1<sup>st</sup> May 2020.
  - 7.3.3. for all other customers from Midday 1<sup>st</sup> May 2020 until Midnight 31<sup>st</sup> May 2020; and
  - 7.3.4. providing all requirements are met, Adelaide Fringe may release tickets earlier than dates referenced above for early on- sale, upon notice in writing to you.
- 7.4. Adelaide Fringe have exclusive Ticketing sales rights to all 2020 Adelaide FringeVIEW events and this is a condition of your registration and participation, unless you receive prior approval in writing by the Adelaide Fringe Director & Chief Executive.
- 7.5. Adelaide Fringe through FringeTIX, will sell tickets until 31st May 2020 to your Events, unless cancelled earlier or if this agreement is terminated.
- 7.6. Adelaide Fringe will implement e-Ticketing as the delivery method for customers at FringeTIX point of sale online. Customers will be provided with an email Ticket confirmation and their URL link to your Event.
- 7.7. Only you will be able to download a copy of the FringeTIX sales report detailing Tickets sold, associated customer names and details if the customer has opted into providing you with this data.
- 7.8. You are responsible for communicating all necessary details for Ticket holders prior to purchase, within your Event description on the web listing. Adelaide Fringe will not email Ticket buyers on your behalf, or provide you with a list of emails of Ticket buyers as this is a breach of Privacy Laws.

## 8. Ticketing Fees and Charges

- 8.1. You agree that the Ticketing fees and charges for the pilot program of 2020 Adelaide FringeVIEW are subject to change in future iterations, and the below ticketing fees and charges are subject to change upon notice by us in writing should the 2020 Adelaide FringeVIEW extend beyond May 31, 2020, at our discretion.
- 8.2. It is free to register your Event with 2020 Adelaide FringeVIEW.
- 8.3. The price for a Ticket that will appear within your Event listing on [adelaidefringe.com.au](http://adelaidefringe.com.au) and sold through FringeTIX will be known as the '**Advertised Ticket Price**'.
- 8.4. In addition to the Advertised Ticket Price, Adelaide Fringe will charge the customer at time of purchase a \$1.80 web transaction fee, per cart transaction (**Fringe Booking Fee**) which will be retained by us.

- 8.5. You agree and warrant to us that you are responsible and liable for all taxes, duties and other charges payable with respect to all Revenue paid to you by Adelaide Fringe.

## 9. Cancellations and Refunds

- 9.1. You must notify Adelaide Fringe immediately via email to [ticketing@adelaidefringe.com.au](mailto:ticketing@adelaidefringe.com.au) if:
- 9.1.1. your Event is removed from YouTube for any reason; or
  - 9.1.2. you wish to remove your registered Event or other Content from Adelaide Fringe website, remove your Event or any particular session of your Event from YouTube, or otherwise cancel your Event.
- 9.2. No action will be taken by Adelaide Fringe to proceed with a cancellation or removal of your Event registration if communicated in any way other than writing from you as above.
- 9.3. You agree that if a customer has purchased a Ticket within the 24 hours prior to the time that the Event video is removed from YouTube, the Customer is eligible for a full refund (in which case you will not be entitled to the Advertised Ticket Price for that Ticket sale).

## 10. Listing of Prices

- 10.1. Any promotional or advertising materials you use for your Events which contain Ticket prices for your Event must be listed as the total price, being the Advertised Ticket Price plus any 'Artist Inside Charge' and Fringe Booking Fee, to provide a single price for each Ticket.
- 10.2. Adelaide Fringe is not liable for any errors in listed Ticket prices by you, and we recommend consulting Live Performance Australia for details on how to accurately label ticket prices and booking fees on all collateral external to the Adelaide Fringe website.

## 11. Ticket Sales Reports and Payment

- 11.1. Adelaide Fringe will provide a link, username, password and instructions to the 'Red61' reporting suite through the program 'Manage My TIX'. These details are also listed on the 'My Festival' page of your AVR. Adelaide Fringe will keep all information pertaining to Ticket sales to your Event(s) strictly confidential and such information will only be available to you.
- 11.2. Adelaide Fringe will hold in trust in the FringeTIX Trust Account all revenue received from Ticket sales to your Event(s) through FringeTIX ('**Revenue**') which will be paid to you in accordance with this clause 11.
- 11.3. We will pay you the Revenue from the sales of Tickets to your Events within fifteen (15) business days of the end of the pilot program of 2020 Adelaide FringeVIEW (intended at this stage to be 31st May 2020), subject to:
- 11.3.1. we may deduct and retain from the Revenue an amount equal to the sum of the Fringe Booking Fees, and any refunds, performed through FringeTIX; and
  - 11.3.2. we may set off, deduct and retain from the Revenue any other outstanding payments due by you to us under or in connection with this agreement or any other agreement.
- 11.4. We will provide a settlement report, sent via email to you only, in relation to the amounts referred to in clause 11.3.
- 11.5. If your Revenue is less than zero after we have deducted and retained the amounts referred to in clause 11.3.1 and 11.3.2, you must pay the positive value of that amount to Adelaide Fringe within ten (10) business days after receiving your settlement report.

## 12. Indemnity

You indemnify us and must pay us on demand for any Liability suffered or incurred by us (whether directly or indirectly) in connection with:

- 12.1. any breach by you of any obligation in this agreement;
- 12.2. your Event or any other Content, including the use of YouTube for your Event, or in relation to any claim by a third party in connection with your Event and any other Content; or
- 12.3. any negligence, or other act or omission by you, your artists, agents, employees or other contractors, in connection with this agreement or the conduct of your Event.

## 13. Liability

- 13.1. Subject to our obligation to pay you any Revenue that is due and payable under clause 11, and to the extent permitted by law:
  - 13.1.1. we are not liable to you under or in connection with this agreement (including under contract, tort, statute, equity, or an indemnity) for any Liability (including any indirect or consequential loss of any kind) you incur in connection with this agreement, your Event or any other Content, or use of YouTube as a platform for your Event, and you release us and waive any claim you have or may have against us for any such Liability; and
  - 13.1.2. you accept that you, your artists, agents, employees or other contractors participate in the 2020 Adelaide FringeVIEW wholly at your own risk.
- 13.2. To the extent permitted by law, all terms, conditions, warranties, representations, or guarantees implied by law in connection with our performance of this agreement are excluded. To the extent any such implied provisions are not able to be excluded by law, our liability under or in connection with a breach of any such implied provision is limited, at our discretion, to the resupply of any goods or services or payment for the resupply of those goods or services (as applicable).

## 14. GST

- 14.1. Any sum payable (or amount included in the calculation of a sum payable), or consideration to be provided, under or in accordance with this agreement already includes an amount on account of GST unless otherwise stated.
- 14.2. If GST is payable by a supplier (or by the representative member for a GST group of which the supplier is a member) on any supply made under or in relation to this agreement, the recipient will pay to the supplier an amount (**GST Amount**) equal to the GST payable on the supply. The GST Amount is payable by the recipient in addition to and at the same time as the net consideration for the supply.
- 14.3. The supplier must deliver a tax invoice or an adjustment note to the recipient before the supplier is entitled to payment of an amount under clause 14.2. The recipient can withhold payment of the amount until the supplier provides a tax invoice or an adjustment note, as appropriate.
- 14.4. If a party is required to make any payment or reimbursement, that payment or reimbursement will be reduced by the amount of any input tax credits or reduced input tax credits to which the other party (or the representative member for a GST group of which it is a member) is entitled for any acquisition relating to that payment or reimbursement.

## 15. Termination

- 15.1. We may terminate this agreement upon notice in writing to you at our discretion, including if the 2020 Adelaide FringeVIEW project ceases for any reason.

- 15.2. We may terminate this agreement upon notice in writing to you if:
- 15.2.1. you breach this agreement and the breach is not, in our opinion, capable of remedy;
  - 15.2.2. you breach this agreement and the breach is not remedied by you within 5 business days of notice from us in writing; or
  - 15.2.3. to the extent permitted by law, if you become insolvent, or are declared bankrupt
- 15.3. Termination or expiry of this agreement does not affect any accrued rights or liabilities of a party up to the date of termination or expiry. Following termination or expiry of this agreement:
- 15.3.1. we may cancel your Event registration and cease further sale of any Tickets to your Event;
  - 15.3.2. you are responsible for removing your Event from YouTube;
  - 15.3.3. any licence of our Intellectual Property granted by us to you under this agreement will cease; and
  - 15.3.4. we will retain all Revenue held by us until such time as we are satisfied that you have paid us all amounts owing by you to us under or in connection with this agreement. Upon being so satisfied, we will pay you the Revenue in relation to Tickets sold up to the date of termination of expiry, less any amounts referred to in clauses 11.3.1 and 11.3.2.

## 16. Definitions

In this agreement, unless the context otherwise requires:

- 16.1. **2020 Adelaide FringeVIEW** has the meaning given at the top of page 1.
- 16.2. **Advertised Ticket Price** has the meaning given in clause 8.3.
- 16.3. **AVR** has the meaning given in clause 2.2.
- 16.4. **Content** means all content in connection with your Event whatsoever, including any video of the Event, any related images, audio or visuals, any information in relation to the registration, any information in relation to the Event on YouTube, and any other information, materials, or items you provide in connection with the Event.
- 16.5. **Event** has the meaning given in clause 1.1.
- 16.6. **Fringe Booking Fee** has the meaning given in clause 8.4.
- 16.7. **GST** has the meaning given by section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 16.8. **Intellectual Property** means any intellectual property rights whatsoever, whether registered or not, whether arising now or in the future, on any legal basis and in any jurisdiction, including rights in relation to copyright, patents, inventions, trademark, design, trade secrets, know how, goodwill, reputation and confidential information.
- 16.9. **Liability** means any liability, loss, damage, claim, action, cost, charge or expense (including legal fees) of any kind whatsoever.
- 16.10. **Revenue** has the meaning given in clause 11.2.
- 16.11. **Ticket** means a ticket for your Event sold by us via FringeTIX.

## **17. Interpretation**

In this agreement:

- 17.1. singular includes plural and vice versa and another grammatical form of a defined word or expression has a corresponding meaning;
- 17.2. reference to a person includes a natural person, corporation and partnership, body corporate, association, governmental or local authority or agency or other entity and vice versa;
- 17.3. headings do not affect interpretation and no rule of construction applies to the disadvantage of a party because that party put forward this agreement or any portion of it;
- 17.4. if a provision of this agreement would, but for this clause, be unenforceable the provision must be read down to the extent necessary to avoid that result but if the provision cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of this agreement;
- 17.5. reference to a party if more than 1 means each of them jointly and severally and includes a successor to the rights or obligations of that party under this agreement;
- 17.6. a reference to A\$, \$A, dollar or \$ is to Australian currency;
- 17.7. a reference to time is to Adelaide, South Australia time;
- 17.8. references to "includes" or "including" or "for example" means without limitation;
- 17.9. 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.

## **18. Privacy Policy**

- 18.1. Adelaide Fringe is committed to protecting the privacy of its artists, employees, prospective employees, venues and the general public.
- 18.2. In order to provide effective service to you, Adelaide Fringe may need to collect certain personal information. Adelaide Fringe has a commitment to the security of your information and will only use this information for the purpose for which you provided it, or for any purpose to which you have additionally consented.
- 18.3. Adelaide Fringe will not disclose or use your information for any purpose other than intended. Adelaide Fringe is committed to protecting an individual's right to privacy and to fully comply with its obligations under the Privacy Act 1988 (Cth) as amended by the Privacy Amendment (Private Sector) Act 2000 (Cth) ("the Act"). In particular, Adelaide Fringe will comply with the Australian Privacy Principles contained in the Act, which may be found on the website of the Office of the Australian Information Commissioner: [www.oaic.gov.au/](http://www.oaic.gov.au/) Adelaide Fringe's Privacy Statement explains some of these principles and how they may apply to you. This Privacy Statement also complies with European General Data Protection Regulation (GDPR).
- 18.4. You can read our full Privacy Policy [here](#).

## **19. Amendment**

No amendment or variation of this agreement is valid or binding on a party unless made in writing executed by all parties.

## **20. Assignment**

You must not assign any of your rights under this agreement, without our prior written consent.

## **21. Costs and duty**



Each party must bear its own costs arising out of the negotiation, preparation, execution and performance of this agreement. All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this agreement and any instrument executed under or any transaction evidenced by this agreement must be paid by you.

**22. Entire agreement**

This agreement contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively Conduct) relied on by the parties and supersedes all earlier Conduct by or between the parties in connection with its subject matter. None of the parties has relied on or is relying on any other Conduct in entering into this agreement and completing the transactions contemplated by it.

**23. Governing law and jurisdiction**

This agreement is governed by the laws of South Australia. Each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction in South Australia.

**24. No merger**

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the transaction.

**25. No waiver**

A failure to exercise or a delay in exercising any right, power or remedy under this agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

**26. Confidentiality**

The parties must keep the existence and the terms of this agreement and the confidential information of another party (together, **Confidential Information**) confidential and must not disclose any Confidential Information to any person except (and only to the extent required):

26.1. to perform or give effect to or enforce this agreement;

26.2. to obtain advice from, or make confidential disclosure to, accounting, financial, legal or other professional advisors or insurers;

26.3. if required by law or legally binding order of any court, government, semi-government authority or judicial body; or

26.4. with the prior written consent of the other party.

**27. Expenses**

You agree that you must perform your obligations under or in connection with this agreement at your own cost and, unless expressly authorised by us, will not be entitled to be reimbursed for any out of pocket expenses incurred by you. You are solely responsible for and will solely bear all Liability in connection with the employment or engagement of your artists, employees, agents, or other contractors.

If you have any questions about this agreement, please contact the Adelaide Fringe Artist & Venue or Ticketing teams:

**Artist & Venue Team**

**Email** | [artists@adelaidefringe.com.au](mailto:artists@adelaidefringe.com.au)  
**Artist & Venue Hotline** | 61 8 8100 2022

[adelaidefringe.com.au](http://adelaidefringe.com.au)

**136 Frome Street Adelaide SA 5000 | Kaurua Land**

**Ticketing Team**

**Email** | [ticketing@adelaidefringe.com.au](mailto:ticketing@adelaidefringe.com.au)  
**Ticketing Hotline** | 08 8100 2012