

## **Definitions**

**Owner** is the proprietor of the equipment listed on the reverse of these terms and conditions.

**Hirer** includes an agent of the hirer and agrees to hire the equipment listed on the reverse, from the owner, upon the terms and conditions in this agreement.

**Equipment** means any item of party and event equipment listed on the reverse of this agreement including accessories.

## Terms and Conditions

### **1 Hire of equipment**

1.1 The hiring of the equipment will commence from the commencement date specified in the attachment to the Schedule and continue for the term specified in the Schedule.

1.2 The hirer is entitled to use the equipment for the hire period. Any extension of the period must be agreed to by the owner.

1.3 The hirer agrees to return the equipment to the address of the owner on or before the end of the hire period as outlined in the attachment to the Schedule.

### **2 Payment for rental**

2.1 The hirer agrees to pay the owner the hire fee specified in the attachment to the Schedule for the equipment for the hire period including any applicable GST, Stamp duties, tolls, fines, penalties, levies or freight and other charges relevant to this agreement and the hire.

2.2 The required fees must be paid to the owner prior to or on the commencement date of the hire period. Equipment not returned on time and in accordance with this agreement will be subject to a continuance of the agreed rental until return is complete and an administration fee may be charged.

2.3 A cancellation fee may be charged by the owner where equipment has been reserved by booking and the hirer cancels the booking without reasonable notice or fails to take delivery of the equipment.

2.4 The owner may charge the hirer a fee for accepting payment by credit card.

### **3 Use, operation, and maintenance**

3.1 The hirer agrees that the use of the equipment carries with it dangers and risks of injury and the hirer agrees to accept all dangers and risks.

3.2 The equipment shall not be used by anyone other than the hirer without the express permission of the owner.

3.3 The hirer shall accept full responsibility for, and shall indemnify the owner against, all liability in respect of the installation and removal of the hire equipment, including but not limited to damage to any underground installation in the nature of electrical, water, sewage, swimming pool or gas pipes or outlets, or any fence, gate or other perimeter surround.

3.4 The hirer agrees to operate, maintain, store and transport the equipment strictly in accordance with any instruction provided by the owner and with due care and diligence.

3.5 The hirer agrees that the equipment will only be used for its intended purpose and in accordance with any manufacturer's instructions and recommendations whether supplied by the owner or posted on the equipment in regard to its operation, maintenance and storage.

3.6 The hirer agrees to comply with all occupational health and safety laws and regulations relating to the use of the equipment and associated operations.

3.7 The hirer shall ensure the equipment is returned to the owner clean of all foreign matter or agrees to a reasonable cleaning fee being charged by the owner.

3.8 The reasonable costs of fuel or other consumables provided by the owner and used by the hirer are to be paid to the owner at the completion date.

#### **4.1 The hirer warrants that:**

- (i) The equipment will be used in accordance with the conditions outlined in the schedule.
- (ii) The particulars in the Schedule are correct in every respect and are not misleading in anyway including, without limitation, by omission;
- (iii) the hirer holds a valid current driver's licence, operating licence or permit valid for the type of equipment hired;
- (iv) the equipment will not be used for any illegal purpose;
- (v) the hirer's vehicle is suitable for towing the equipment if required;
- (vi) the hirer will not, without prior written consent of the owner, tamper with, repair or modify the equipment in anyway, or permit an other to do so;
- (vii) the hirer agrees that the equipment complies with its description, is in merchantable condition and is fit for the hirer's purpose.
- (viii) the hirer agrees that the equipment has been received by the hirer clean and in good working order.

#### **5 Indemnity**

5.1 To the full extent permitted by law the hirer releases, discharges and indemnifies the owner from all claims and demands on the owner arising out of or consequent on the use or misuse of the equipment during the hire period.

5.2 Without limiting clause 6.1 of this agreement, the hirer agrees that to the full extent permitted by law, no warranties are given by the owner in respect of the equipment. Any liability of the owner pursuant to any warranty which cannot be excluded by law will not exceed either the cost of repairing the equipment or the cost of resupplying the equipment, at the discretion of the owner.

#### **6 Loss, damage or break down of equipment**

6.1 The hirer will be responsible for any loss or damage to the equipment irrespective of how the loss or damage occurred, except for fair wear and tear, during the hire period.

6.2 The hirer is liable for the payment of the new list price of any equipment not returned to the owner.

6.3 If there is a breakdown or failure of the equipment the hirer shall notify the owner immediately for the appropriate action to be taken.

#### **7 Insurance**

7.1 The owner will maintain current insurance policies in respect of the equipment to its full insurable value

#### **8 Liability**

8.1 The hirer will assume all risks and liabilities for, and in respect of, the equipment and for all injuries to or deaths of persons and any damage to property

Howsoever arising from the hirer's possession, use, maintenance, repair, storage or transport of the equipment.

#### **9 Disclaimer**

9.1 To the extent permitted by law the owner disclaims all liability for and does not give any warranties to the hirer as to the condition of the equipment.

#### **10 Title to equipment**

10.1 The hirer acknowledges that the owner retains title to the equipment and that the hirer has rights to use the equipment as a mere bailee only. The hirer agrees that the hirer has no rights to pledge the owner's credit in connection with the equipment.

10.2 The hirer agrees not to agree, offer or purport to sell, assign, sublet, lent, pledge, mortgage let or hire or otherwise part with or attempt to part with personal possession or otherwise not to deal with the equipment and not to conceal or alter the goods or make any addition or alteration to, the equipment.

## **11 Repossession and remedies on default**

11.1 The owner may retake possession of the equipment if the hirer breaches any provision of this agreement, notwithstanding anything else here in contained.

11.2 If repossession takes place, the owner shall only charge the hire fee up to and including the time of repossession.

11.3 All costs incurred by the owner incurred in repossessing due to a breach are to be paid by the hirer.

11.4 In the case of repossession due to a breach of this agreement the hirer agrees to grant the owner permission to enter any premises where the equipment listed in the schedule is situated to disconnect, decommission and/or remove that equipment.

11.5 In addition to the owner's right to retake possession the owner is entitled in its discretion, following any breach of any provision of the agreement by the hire, to terminate this agreement and/or sue for recovery of any damages or charges or loss suffered by the owner, and/or to cancel any insurances effective in respect of the equipment hired.

## **12 Completion of the hire period**

12.1 The hire period is completed when the equipment has been returned to the owner in the same condition as when it was hired:

- (i) On or by the date and time outlined in the attachment to the Schedule, or
- (ii) will be deemed completed on the date agreed for pick-up by the owner.

12.2 Where pick-up is agreed the owner will arrange to pick-up the equipment within a reasonable period after a request to do so.

12.3 The hirer agrees to maintain the responsibility for the equipment whilst it is awaiting pick-up.

## **13 Non-merger**

13.1 The covenants, agreements and obligations contained in this agreement will not merge or terminate upon the termination of this agreement and to the extent that they have not been fulfilled or satisfied or are continuing obligations they will remain in force and effect.

## **14 Severance**

14.1 If any provision of this agreement is wholly or partly invalid, unenforceable, illegal, void or voidable, this agreement must be construed as if that provision or

Part of a provision had been severed from this agreement and the parties remain bound by all of the provisions and part provisions remaining after severance.

## **15 Governing law**

15.1 This agreement is governed by the laws of the State or Territory where the agreement is made and each party submits to the exclusive jurisdiction of the Court of that State or Territory.

## **16 Privacy policy**

16.1 The owner will comply with the National Privacy Principles in all dealings with hirers. Information on our privacy policy is available on request.

## **17 Disputes**

17.1 Both the owner and the hirer agree that any disputes arising from the hire and use of the equipment (except in regard to payment of fees or charges) shall be

Negotiated with a view to settlement with the assistance of the Hire and Rental Industry Association Limited (Tel 02 9997 5166) before litigation is pursued.