

1 INTERPRETATION

In these terms and conditions of hire (**Terms**):

Delivery Date means the date specified in the Order by when the Goods are to be delivered to the Site;

Goods means the goods or items described on the Order and any replacement for those goods and includes all accessories and other equipment supplied on hire by the Owner to the Hirer;

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Hirer means any person, firm, corporation or company hiring the Goods from the Owner and includes any officer, employee or agent of the Hirer;

Hire Charges means the charges, including a delivery and collection charge, payable by the Hirer for the hire of the Goods based on the Price List and specified in the Order;

Hire Period means that period of hire specified in the Order (being a period of no less than 24 hours) beginning on delivery of the Goods to the Site;

Order means a purchase order, or any other order, request, arrangement, quotation, document or understanding for the supply of any Goods including any Order made available on the Website;

Owner means Inside Out Events ABN 47 273 022 977 and its, successors and permitted assigns, representatives or agents;

Price List means the Owner's price list in Australian Dollars for the hire of the Goods as provided to the Hirer or made available on the Website;

Site means the location to which the Goods are to be delivered as requested by the Hirer; and

Website means the Owner's website www.insideoutevents.com.au.

2 HIRE OF GOODS

2.1 The Owner agrees to hire the Goods to the Hirer for the Hire Period and the Hirer agrees to take the Goods on hire for the Hire Period and to pay the Hire Charge set out in the Order and Tax Invoice for that Hire Period, together with any GST, in accordance with these Terms.

2.2 The Hirer is entitled to use the Goods for the Hire Period.

2.3 The Owner may agree to extend the Hire Period and, if the Owner so agrees, the Hirer must pay the Hire Charges for any extended Hire Period.

2.4 The Hirer acknowledges that it has received adequate instruction on the correct use of the Goods which includes demonstration or verbal or written instructions from the Owner.

3 PAYMENT OF HIRE CHARGES

3.1 The Hirer agrees to pay to the Owner the Hire Charges in advance, by bank transfer, credit card or cash as follows:

- 3.1.1 30% of the Hire Charges upon confirmation of the Order, which amount is non-refundable; and
- 3.1.1 balance of the Hire Charges 14 days prior to the Delivery Date.

3.2 Where the Hirer pays by credit card, the Hirer agrees to provide the Owner with the Hirer's credit card number, expiry date and any other information or documents which may be necessary to debit the Hirer's credit card or to allow the Owner to receive payment through any credit card system.

3.3 The Hirer acknowledges and agrees that the Owner is not required to, and will not, deliver the Goods to the Site unless the Hire Charges are paid prior to the Delivery Date.

3.4 If the Hirer makes payment by way of credit card, the Owner shall be entitled to pass-on the surcharge that the credit card company charges to the Owner.

4 DELIVERY AND COLLECTION OF GOODS

4.1 The Hirer acknowledges and agrees that:

- 4.1.1 the delivery and collection charge forming part of the Hire Charges:
 - 4.1.1.1 is for delivery and collection of the Goods at street level at the Site; and
 - 4.1.1.2 does not include setup of the Goods on or at the Site; and
- 4.1.2 the Hirer will be required to pay extra:
 - 4.1.2.1 delivery and collection charges for delivery to and collection from higher or lower levels on or at the Site; and
 - 4.1.2.2 charges for the setup of any Goods on or at the Site, as agreed in writing between the Owner and the Hirer before the Goods are delivered to the Site. If the additional charges cannot be agreed, the Owner reserves the right to cancel the order, in which case clause 5.3 shall apply.

4.2 The Hirer must provide safe and proper access and clear of all obstructions to and at the Site to enable the Owner to deliver and collect the Goods.

4.3 14 days prior to the Delivery Date the Hirer must provide a plan of the Site and the specific area in which the Goods are to be delivered. If the Hirer fails to do so, the Owner has an unfettered discretion (acting reasonably) as to where delivery of the Goods will be effected at the Site.

4.4 The Hirer is liable for all injury, loss or damage suffered by the Owner, its employees, contractors or agents while at the Site, which are not the result of negligence by the Owner, its employees, contractors or agents.

4.5 The Hirer acknowledges that the Owner may inspect the Goods at any time during the Hire Period, whether or not notice of such inspection is given to the Hirer, and the Hirer must provide all assistance and co-operation necessary to facilitate the Owner's inspection of the Goods.

4.6 The Hirer shall indemnify, and keep indemnified, the Owner in relation to any action of trespass or any other action or claim in the course of the Owner exercising its right to deliver, inspect and collect the Goods.

5 CHANGES TO ORDER AND CANCELLATIONS

5.1 Subject to availability and payment of the relevant Hire Charges, the Owner may accept increases in the quantity of or substitution to the Goods ordered.

5.2 Reductions in quantity of Goods ordered will be accepted by the Owner without the Hirer forfeiting any part of the Hire Charges if a reduction results in a difference of no more than 10% of the Hire Charges indicated on the Order and the Owner is notified in writing of the reduction at least 14 days before the Delivery Date.

5.3 The Hirer may cancel an Order or individual Goods on an Order by written notice to the Owner but will forfeit the Hire Charges paid in respect of that Order or individual cancelled Goods as the case may be, as follows:

- 5.3.1 cancellation at least 14 days before the Event Date - 30% of the Hire Charges indicated on the Order will be forfeited in favour of the Owner;
- 5.3.2 cancellation between 8 and 13 days before the Event Date - 50% of the Hire Charges indicated on the Order will be forfeited in favour of the Owner;
- or
- 5.3.3 cancellation within 7 days of the Delivery Date - 100% of the Hire Charges indicated on the Order will be forfeited in favour of the Owner.

5.4 The Hirer agrees that the forfeited amounts in 5.3 are a genuine pre-estimation of loss incurred by the Owner for loss of bargain and opportunity cost and are in the way of liquidated damages and not a penalty.

5.5 Subject to availability of Goods, an Order may be transferred only once by the Hirer to a later date within 7 days of the original Delivery Date without forfeit of any part of the Hire Charges.

6 HIRER'S OBLIGATIONS

The Hirer will, and must:

- 6.1 accept responsibility for the Goods hired from the time of its delivery until collection by the Owner;
- 6.2 keep the Goods in the same condition as they were provided by the Owner and protect and use them as they would be used by a careful and prudent owner;
- 6.3 use the Goods in the manner consistent with their manufacture and specifications;
- 6.4 not expose the Goods to wet weather, and if the goods are used outdoors will be under cover during inclement weather, including during the waiting period before collection by the Owner and at the location where the Goods may be removed under clause 6.8;

- 6.5 not use the Goods for any illegal purpose;
- 6.6 report any damage to, or loss of, the Goods to the Owner immediately if such damage or loss occurs;
- 6.7 at the Owner's discretion exercised reasonably, pay either the full replacement cost or repair costs of Goods damaged or lost during the Hire Period howsoever and by whomsoever caused (excepting the Owner, its employees, contractors or agents), including but not limited to damage caused by:
- 6.7.1 overloading, exceeding capacity or specifications;
 - 6.7.2 misuse or abuse;
 - 6.7.3 the Hirer's negligence;
 - 6.7.4 loss or mysterious disappearance of Goods;
 - 6.7.5 cigarette and sparkler or other fire burns or holes on any Goods;
 - 6.7.6 rips or staple marks on any Goods;
 - 6.7.7 food, water or liquid damage including stains on any Goods;
 - 6.7.8 stains on any Goods including but not limited to candle wax, mould, rust or graffiti;
 - 6.7.9 animals,
- and in respect of any full replacement cost or repair cost, the Hirer:
- 6.7.10 acknowledges and agrees to pay any full replacement cost or repair costs within seven days of the date of an invoice from the Owner for that relevant cost; and
 - 6.7.11 authorises the Owner to debit the Hirer's credit card with the amount shown on the relevant invoice if the Hirer has not paid that amount within seven days of the date of the relevant invoice;
- 6.8 not remove the Goods from the Site once delivered, unless the Goods are at risk of damage, in which case the Hirer agrees to take all reasonable steps to immediately remove the Goods from the risk and notify the Owner of their location;
- 6.9 be liable for any breach of these Terms and the Hirer's obligations committed by the Hirer's contractors, guests, customers, servants or agents;
- 6.10 ensure that the Goods are ready for collection by the Owner in a reasonably clean state, dry and, where delivered in packaging or stacked, properly packed and stacked; and
- 6.11 indemnify, and keep indemnified, the Owner for any loss (including legal costs) incurred by the Owner in relation to any breach of these Terms and for any liability arising out of any such breach caused or contributed to by the Hirer and/or the Hirer's contractors, guests, customers, servants or agents.
- 7 HIRER'S INSURANCE OBLIGATIONS**
- The Hirer will, and must, maintain at its own expense all appropriate policies of insurance:
- 7.1 for theft and damage to the Goods in an amount not less than the full replacement cost of the Goods; and
 - 7.2 for public liability and against liability for death or injury to third persons in amounts necessary to fully protect the Owner and the Goods against all claims, loss or damage whatsoever,
- and will, and must, provide a copy of each relevant policy to the Owner upon demand being made.
- 8 LIMITATION OF LIABILITY**
- 8.1 Subject to the provisions of this clause 8, the Hirer agrees that neither the Owner nor any of the Owner's representatives, employees, contractors or agents shall be liable to the Hirer or any other person for any loss, injury, or damage whatsoever to any person or their belongings or otherwise arising out of or in connection with the supply of the Goods by the Owner resulting directly or indirectly from any occurrences including breakdown/faults in equipment, strikes, theft, delay or cancellations or changes in itinerary or schedules.
- 8.2 Neither the Owner nor any of the Owner's representatives, employees, contractors or agents accept any liability whatsoever and shall not be liable to the Hirer or any other person for any injury, damage, loss, delay, additional expenses or any distress, disappointment or inconvenience caused either directly or indirectly by any events or acts or omissions which are beyond the Owner's control, including but not limited to, war, civil commotion, fire, floods, acts of God, act of government or other authorities, industrial action or accident or failure of machinery or equipment.
- 8.3 The Owner shall not be liable for any indirect or consequential losses or expenses suffered by the Hirer, including but not limited to, loss of turnover, profits, business or goodwill or any liability to any other party or for any loss or damage suffered by the Hirer as a result of a breach of these Terms.
- 8.4 If the *Competition and Consumer Act 2010 (Cth)* or any similar law applies and an implied or statutory condition or warranty cannot be excluded the Owner's liability will be limited, at the Owner's discretion, to either the replacement or resupply of the Goods.
- 8.5 If the *Competition and Consumer Act 2010 (Cth)* applies, the Hirer has certain rights under the Australian Consumer Law, known as 'consumer guarantees'. These rights include guarantees that the Goods supplied by the Owner:
- 8.5.1 will be of acceptable quality;
 - 8.5.2 will be reasonably fit for any purpose made known to the Owner before the Owner supplies them to the Hirer; and
 - 8.5.3 will correspond with any description, sample or demonstration model.
- 8.6 Nothing in these Terms is intended to override or limit any rights the Hirer has under the Australian Consumer Law or any consumer rights which the Hirer has and which cannot be contracted out of.
- 9 RELEASE AND INDEMNITY**
- The Hirer releases the Owner from, and agrees to indemnify, and keep indemnified, the Owner in respect of any third party claims, action, suits, demands, costs and expenses for damage or injury to person, death, loss of income or damage caused to the Hirer or its property arising directly or indirectly out of the hire or use of the Goods by the Hirer or these Terms.
- 10 OWNERSHIP**
- The Hirer acknowledges that:
- 10.1 the Goods remain at all times the property of the Owner; and
 - 10.2 the Owner may retake possession of the Goods at any time if the Hirer breaches any provision of these Terms.
- 11 ACCEPTANCE**
- The Hirer hereby unconditionally accepts:
- 11.1 these terms and acknowledges that its acceptance is a condition precedent to taking possession of the Goods from the Owner; and
 - 11.2 that by making a booking through or confirming an Order:
 - 11.2.1 via the Website;
 - 11.2.2 by signature on an Order;
 - 11.2.3 by deposit payment or remittance of the Hire Charges,the Hirer acknowledges and agrees to these Terms.
- 12 GOVERNING LAW**
- These Terms are, and will be, governed by the law of Western Australia.