

## CONDITIONS OF HIRE

These Conditions of Hire form the basis of an agreement between City Hire Pty Ltd ACN 010 142 659 trading as Event Rentals and the person or persons named as the Customer on the Hire Contract. By signing the Hire Contract, you acknowledge reading these Conditions of Hire and agree to be bound by them.

### 1. DEFINITIONS

**Additional Costs** means any additional costs as set out in the Hire Contract or as incurred in accordance with clauses 7.3 and 8.2;

**Conditions of Hire** means these Conditions of Hire;

**Delivery Fee** means the delivery fee set out in the Hire Contract;

**Deposit** means the deposited noted on the Hire Contract;

**Equipment** means all equipment hired by Event Rentals to the Hirer at the Hirer's request;

**Event Rentals** means City Hire Pty Ltd ACN 010 142 659 trading as Event Rentals, and its subsidiaries, successors, assigns and associated companies and their servants and/or agents, and when used, the words "we", "us", and "our" are references to Event Rentals;

**Fee** means the fee set out in the Hire Contract, any Additional Costs and/or Delivery Fee and any increase in the Fee in accordance with clause 7.2.

**Hirer** means the Hirer hiring the Equipment, and when used, the words "you" and "your" are references to the Hirer;

**Hire Contract** means the Hire Contract listing the equipment to be hired and the Fee, a copy of which is annexed hereto. These Conditions of Hire form part of the Hire Contract;

### 2. HIRE PERIOD

2.1 The Hire Period: -

(a) Is the period of hire specified in the Hire Contract; and

(b) in the case of: -

(i) Event Rentals delivering the Equipment to the Hirer, commences from the time the Equipment leaves Event Rentals premises; and

(ii) the Hirer collecting the Equipment from Event Rentals premises, commences from the time Event Rentals makes the Equipment available for collection from its premises.

2.2 If the hiring of the Equipment extends beyond the Hire Period, except as provided for in clause 2.3, the Hirer is charged Additional Costs as calculated in accordance with clause 8.2.

2.3 The Hire Period may be extended by mutual agreement between the parties in writing, which agreement must specify any increase to the Fee.

### 3. SECURITY INTEREST

3.1 These Conditions of Hire constitute a security agreement, and the Hirer grants a security interest in

all Equipment hired to the Hirer under these conditions.

3.2 Without limiting clause 3.1 and the operation of these Conditions of Hire generally, the Hirer grants a purchase money security interest in all Equipment supplied to the Hirer in favour of Event Rentals.

3.3 The Hirer must immediately upon request by Event Rentals, sign any documents, provide all necessary information and do all things required by Event Rentals to ensure that Event Rentals' purchase money security interest is a perfected security interest.

3.4 The Hirer must not enter into any security agreement that allows any other person to have or to register a security interest in relation to the Equipment until Event Rentals has a perfected security interest and if applicable, a perfected purchase money security interest.

3.5 In accordance with section 115 of the PPSA, for any Equipment hired that are not products that are used predominantly for personal, domestic or household purposes:

(a) The Hirer and Event Rentals hereby agree to contract out of sections 95, 96, 118, 121(4), 125, 129 (2), 129 (3), 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA; and

(b) The Hirer waives any rights the Hirer may have to:

(i) receive any notices the Hirer may be entitled to receive under sections 95, 118, 121, 129 (2), 130, 132(3)(d), 132(4) or 135;

(ii) receive a copy of any financing statement or any financing change statement registered by Event Rentals', or any verification statement confirming such registration, in respect of any security interest Event Rentals may have in the Equipment;

(iii) apply to a court for an order concerning the removal of an accession under section 97; and

(iv) object to a proposal of Event Rentals to dispose or retain any collateral under sections 130 and 135.

3.6 For the purposes of this clause: "PPSA" means the *Personal Property Securities Act 2009*, and the expressions "accession", "collateral", "financing statement", "financing change statement", "security agreement", "security interest", "perfected security interest", "purchase money security interest" and "verification statement" have the meanings given to them by the PPSA, and references to sections are sections of the PPSA.

### 4. TITLE

4.1 Title to the Equipment at all times remains with Event Rentals.

### 5. DELIVERY

5.1 If Event Rentals agrees to deliver the Equipment to the Hirer:

- (a) delivery is taken to be when the Equipment leaves Event Rentals premises;
  - (b) delivery will be to the location nominated by the Hirer for the Delivery Fee; and
  - (c) Event Rentals will use its best endeavours to have the Equipment delivered to the Hirer prior to the commencement of the Hire Period, but Event Rentals is not liable for any loss as a result of any delay in delivery, late delivery or non-delivery of the Equipment.
- 5.2 If the Hirer collects the Equipment from Event Rentals, delivery is taken to occur when the Equipment is collected from Event Rentals.

## **6. SUBSTITUTION**

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- 6.1 Event Rentals has the right to substitute any portion of the Equipment hired with the nearest type of Equipment without liability to the Hirer.

## **7. FEE**

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- 7.1 The Fee must be paid as follows:
- (a) the Deposit on the day you sign the Hire Contract; and
  - (b) the balance at least 7 days prior to delivery or collection of the Equipment.
- 7.2 Where the Hire Period is extended under clause 2.3, the Fee will increase as agreed between the parties and the increased Fee must be paid at least 2 business days prior to expiry of the initial Hire Period.
- 7.3 Additional Costs may apply when:
- (a) erecting or dismantling the Equipment is required at higher or lower levels;
  - (b) the Equipment is not properly packed and ready for collection when required;
  - (c) clearing and levelling of sites is required (in Event Rentals' sole opinion);
- 7.4 Cancellation fees are payable as follows:
- (a) in the event of cancellation by the Hirer of more than 48 hours before the date of commencement of the Hire Period specified in the Hire Contract, 10 per cent of the Fee is payable;
  - (b) in the event of cancellation by the Hirer of more than 24 hours but less than 48 hours before the date of commencement of the Hire Period specified in the Hire Contract, 25 per cent of the Fee is payable; and
  - (c) if the Hirer cancels the Hire Contract, within 24 hours of the time for delivery, or fails to take delivery of the Equipment, Event Rentals may, at its discretion, charge the Hirer the full amount owing under the Hire Contract, or part thereof.
- 7.5 The Fee is payable even if the Equipment is collected or returned prior to the expiry of the Hire Period.
- 7.6 Event Rentals will render a tax invoice in conjunction with processing payment.
- 7.7 All tax invoices will be expressed and must be paid in Australian dollars.
- 7.8 If the Fee is not paid by its due date, Event Rentals reserves the right to charge interest at the rate of 5% per annum above the rate then ruling for 180 day bank accepted bills by Event Rentals' bank.

## **8. RETURN OF EQUIPMENT AND LATE RETURN**

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- 8.1 Equipment must be returned to Event Rentals before 4.30pm on the last day of the Hire Period.
- 8.2 Where Equipment is not returned prior to 4.30pm on the last day of the Hire Period, Event Rentals may, at its sole discretion, charge the Hirer Additional Costs (such costs to be calculated by Event Rentals reasonably, taking into consideration the losses incurred by Event Rentals as a result of the Hirer failing to comply with clause 8.1).
- 8.3 In the event that Event Rentals agrees to collect the Equipment from the Hirer, the Hirer must make the Equipment available for collection, in a clean, dry and properly packed condition Rentals from the location where the Equipment was delivered, unless otherwise agreed in writing by Event Rentals;

## **9. ACCESS**

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- 9.1 The Hirer warrants that Event Rentals has permission to enter the property where the Equipment is to be used, both for delivery and inspection during the Hire Period.
- 9.2 The Hirer acknowledges that it is responsible for arranging power to any Equipment which requires electricity.

## **10. OBLIGATIONS OF HIRER**

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- 10.1 The Hirer must:
- (a) not sell, transfer, assign, lease, part with possession or otherwise dispose of the Equipment;
  - (b) not create, incur, assume or suffer to exist any mortgage, lien, charge or encumbrance of any kind on or in the Equipment;
  - (c) not remove, conceal, change, alter or deface any name, name plate, identification number, trademark, or any other identifying mark or number on the Equipment;
  - (d) not remove, or allow to be removed, the Equipment from the location specified to Event Rentals without Event Rentals' prior written consent;
  - (e) immediately inform Event Rentals of any seizure or attempted seizure of the Equipment, or of any material loss or damage to the Equipment;
  - (f) comply, in all respects, with the instructions and recommendations of the manufacturer and/or Event Rentals relating to the Equipment and its use;
  - (g) operate and maintain the Equipment in accordance with manuals, methods and standards for Equipment of such type;
  - (h) ensure that the Equipment is only operated by competent and properly qualified, certified, licensed and/or trained personnel;
  - (i) except for fair wear and tear, always keep and maintain the Equipment properly serviced, in proper working order and condition and in good and substantial repair;
  - (j) properly and thoroughly dry and clean the Equipment prior to the expiry of the Hire Period;
  - (k) immediately notify Event Rentals of any damage to the Equipment;
  - (l) otherwise take all such steps as may be necessary to safeguard and protect the title and the rights Event Rentals in the Equipment.

- 10.2 The Hirer must further comply in all respects with all applicable laws, regulations requirements, and rules relating to the registration, licensing, use and safe and lawful operation of the Equipment.
- 10.3 Where the Equipment includes a marquee with a floor area of more than 500m<sup>2</sup>, the Hirer must ensure that it has obtained development approval as required *Building Regulation 2006* (Qld) or similar legislation (whichever is applicable), except where Event Rentals agrees in writing to obtain such approval. At all times, the cost of obtaining any approvals will be borne by the Hirer.

## **11. ACKNOWLEDGMENTS OF HIRER**

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- 11.1 The Hirer acknowledges that: -
- (a) prior to entering into the Hire Contract, it has satisfied itself as to the suitability of the Equipment for the Hirer's purposes;
  - (b) it has read and understood and wishes to be bound by the full terms, conditions and effect of these Conditions of Hire;
  - (c) the person who made the Offer to Hire was authorised to do so;
  - (d) all conditions and warranties, express or implied, whether arising by virtue of statute or otherwise as to the condition, suitability, capacity, quality, fitness, safety of or title to the Equipment are hereby expressly negated and excluded and Event Rentals gives no condition, warranty or undertaking and makes and has made no representation in relation to the condition or suitability of the Equipment or its title, quality, fitness or safety other than as set out in the these Conditions of Hire;
  - (e) it has received adequate verbal and/or written instructions on the correct use of the Equipment;
  - (f) the use, operation and possession of the Equipment is at the Hirer's risk; and
  - (g) its obligations to pay the hire charges and to comply with these Conditions of Hire continue to the extent permitted by law, despite the occurrence of any defect in, or total or partial breakdown of, the Equipment or any damage to or loss of the Equipment.

## **12. WARRANTY AND INDEMNITY**

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- 11.1 You hereby indemnify to the extent of law, and agree to keep indemnified, Event Rentals and its officers, directors, employees, agents, successors and assigns against all actions, claims, demands, losses and/or damages, and suits (including, but not limited to, court and legal costs on a solicitor and client basis) which are made or brought by any person against Event Rentals arising out of or consequential to the Hire Contract.
- 11.2 You hereby indemnify, and agree to keep indemnified, Event Rentals from and against all actions, claims, demands, losses and/or damages and liabilities arising out of or consequential upon:
- (a) any breach by you of the Hire Contract; or
  - (b) any act or omission, including any negligence, unlawful conduct or wilful misconduct, by you in breach of these Conditions of Hire, or any breach by your officers, directors, employees, agents, successors and assigns relating to the subject matter of the Hire Contract.

## **13. LIMITATION OF LIABILITY**

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- 13.1 Except as otherwise provided in these Conditions of Hire, the Hirer agrees that Event Rentals is not liable for any direct, indirect, or other consequential loss or damage to the Hirer or any property of the Hirer including, but not limited to, loss of profits or revenue or costs arising from the loss or use of the Equipment under any circumstances whatsoever.
- 13.2 To the full extent permitted by the law, the Hirer releases and discharges Event Rentals and its agents and employees from all claims and demands on Event Rentals and any loss or damage whatsoever and whenever caused to the Hirer, its agents or employees, whether by way of death or injury to any person of any nature or kind, accident or damage to property, delay, financial loss, or otherwise arising directly or indirectly from or incidental to a breakdown of or defect in the Equipment or any accident to or involving the Equipment or the use, operation, repair, maintenance or storage which may otherwise be suffered or sustained in, upon, or near the Equipment.
- 13.3 Where clauses 13.1 and 13.2 cannot legally operate and to the extent permitted by law, Event Rentals' liability for breach of any warranty or any term implied by law or statute into the Conditions of Hire is limited to the lesser of the cost of providing the services under the Hire Contract again or the Fee payable under the Hire Contract

## **14. INSURANCE**

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- 14.1 The Hirer must, at its own expense, maintain throughout the Hire Period insurance for:
- (a) the loss of or damage to the Equipment for not less than the current market value of the Equipment; and
  - (b) all third party and public liability risks in respect of the use of the Equipment for an amount not less than \$10,000,000.00.
- 14.2 The Hirer must:
- (a) ensure that Event Rentals is recorded as owner of the Equipment in any insurance policy relating to the Equipment;
  - (b) upon request by Event Rentals, deliver to Event Rentals a copy of each insurance policy duly certified by the insurer in respect thereof and a certificate of currency in respect thereof.

## **15. LOSS OR DAMAGE**

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- 15.1 If either: -
- (a) loss of the Equipment (or any part thereof) or the loss of their use due to destruction, damage beyond repair or the rendering of the Equipment (or any part thereof) for any reason whatsoever permanently unfit for normal use; or
  - (b) the theft, disappearance or seizure of, or the requisition for use of the Equipment (or any part thereof) which results in the loss of possession of it by the Hirer, occurs, then:
    - (i) the Hirer must inform Event Rentals immediately;
    - (ii) the Hirer must pay to Event Rentals on demand any amount owing to Event Rentals;

- (iii) the Hirer must pay to Event Rentals all moneys subsequently received by the Hirer under any insurance policy by reason of the occurrence or received from any other person by reason thereof; and
  - (iv) notwithstanding anything else in this Hire Contract, the Hirer must pay to Event Rentals the full replacement or reinstatement cost (whichever is applicable) of the Equipment within 14 days of such loss.
- 15.2 Except as otherwise set out in these Conditions of Hire, the Hirer is liable for all loss or damage to the Equipment, irrespective of the cause and must continue to pay the Fee and all other moneys owed to Event Rentals notwithstanding such loss or damage to the Equipment.

## **16. TERMINATION**

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- 16.1 Event Rentals may terminate the Hire Contract immediately and repossess the Equipment if:
- (a) you breach or are in default under any of these Conditions of Hire and fail to remedy the breach or default within than five (5) Business Days of receiving a notice of breach or default from Event Rentals; or
  - (b) you become bankrupt or have an administrator, receiver, liquidator or other external controller appointed.
- 16.2 In the event of the Hire Contract being terminated under this clause 16 you must promptly make the Equipment available for collection by Event Rentals on a date and at a time specified by Event Rentals.
- 16.3 In the event that you breach clause 16.2, you consent to Event Rentals or its agents gaining entry to the any premises where the Equipment is located, whether you are present or not, and to use such force as is necessary in order to repossess the Equipment.
- 16.4 You will make no claim against Event Rentals or its agents for damage arising out of or in connection with repossessing the Equipment under clause 16.3.

## **17. GST**

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- 17.1 Unless otherwise stated, an amount payable by under these Conditions of Hire in respect of a taxable supply represents the value of that supply (exclusive of GST), and the recipient must, in addition to that amount and at the same time, pay to the supplier the GST payable in respect of the supply.

## **18. FORCE MAJEURE**

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- 18.1 If Event Rentals is unable at any time to perform any of its obligations whether wholly or partly by reason of any cause beyond its control (including without limitation, acts of God, inclement weather, strikes, lockouts, fires, riots, civil commotion or unrest, interference by civil or military authorities or act of war), Event Rentals may give written notice to that effect to the Hirer, giving full particulars of such force majeure, in which case the obligations of Event Rentals under the Hire Contract shall, to the extent that they are affected by the force majeure, be suspended during the term of the force majeure. Event Rentals shall not be liable for any loss or damage suffered by the Hirer because of any delays caused by such force majeure events.

## **19. NOTICES**

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- 19.1 All notices and consents required or permitted to be given under the Hire Contract must be in writing and may be given by one or more of the following modes; personal service, pre-paid postage, email or facsimile transmission at the addresses of the parties as notified to one another or to such other address as the party to be served may designate to the other party or parties by written notice.

## **20. ASSIGNMENT**

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- 20.1 Event Rentals may assign the benefit and the burden (if any) of the Hire Contract to a third party without any notice to you.
- 20.2 Neither the Hire Contract nor any rights or obligations hereunder may be assigned or otherwise transferred by you.

## **21. MISCELLANEOUS**

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- 21.1 The Hire Contract will be governed by the laws of Queensland, Australia and the parties submit to the jurisdiction of that State.
- 21.2 If any provision of the Hire Contract should be held to be invalid in any way or unenforceable, the remaining provisions will not in any way be affected or impaired thereby, and the Hire Contract will be construed so as to most nearly give effect to the intent of the parties as they were originally executed.
- 21.3 The waiver of a breach of any term of the Hire Contract must be in writing, and will not be a waiver of any other breach of that term or the breach of any other term.