

## TERMS AND CONDITIONS OF HIRE

### DEFINITIONS

**“Agreement”** means the agreement between the Owner and the Hirer for the hire of Equipment which includes but is not limited to:

- a) the Quotation;
- b) these general terms and conditions of hire;
- c) any other conditions of hire, as agreed by the parties in writing.

**“Amounts Owning”** means all amounts owing by the Hirer to the Owner under or in connection with the hire of Equipment as described in the Quotation.

**“Deposit”** means the deposit amount as described in the Quotation which the Hirer is to pay to the Owner no later than three days prior to the Start Date.

**“Equipment”** means the items hired out 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).

**“Hire Charges”** means the rates and charges payable by the Hirer for the hire of the Equipment for the Hire Period, together with any applicable GST, as set out in the Quotation.

**“Hire Period”** commences on the Start Date and end on the Return Date.

**“Hirer”** means any person who shall hire equipment or engage the services from the Owner as described in the Quotation

**“Owner”** means **“Pronto Hire Pty Ltd ABN 74 632 251 257”** and its substitutes, successors and permitted assigns.

**“PPSA”** means the Personal Property Securities Act 2009 (Cth) and where applicable includes all regulation made pursuant to it.

**“Quotation”** means any written quotes that have been agreed upon between the Owner and the Hirer.

**“Return Date”** means the date on which the Equipment is to be returned to the physical possession of the Owner, as agreed between the parties.

**“Start Date”** is the earlier of:

- (a) when the Hirer takes possession of the Equipment or;
- (b) when the Owner delivers the Equipment to the Hirer’s nominated premises for drop-off; or
- (c) the date that the Owner and Hirer agrees in writing to be the start date.

### 1 HIRE OF EQUIPMENT

- 1.1 The Equipment supplied for hire remains at all times the property of the Owner.
- 1.2 The Owner agrees to rent the Equipment to the Hirer for the Hire Period.
- 1.3 The Hirer agrees to take the Equipment on hire for that period and to pay the Hire Charges in the Agreement for the Equipment.
- 1.4 The Hire must not remove the Equipment from the delivery site, without the written consent of the Owner, except for the purposes of returning the Equipment to the Owner.
- 1.5 The Owner is not responsible for the set-up of the Equipment, unless otherwise expressly state and agreed in writing between the Owner and the Hirer.
- 1.6 The Hirer is only entitled to use the Equipment for the Hire Period and for any agreed extension of the Hire Period in writing.
- 1.7 The Hirer agrees to return the Equipment to the Owner at the end of the Hire Period to the Owner’s premises, unless otherwise agreed in writing.

### 2 PAYMENT OF HIRE

- 2.1 The Hirer agrees to pay to the Owner the amount of the Hire Charges under the Agreement.
- 2.2 The Owner reserves the right to amend the Hire Charges in accordance with any change to the Hire Period for the Equipment.
- 2.3 In addition to the Hire Charges, the Hirer agrees to pay:
  - (a) charges for payments made by credit card;
  - (b) charges for delivery and collection and installation (if applicable);
  - (c) for cleaning and repair of Equipment if not returned in clean and good working condition;
  - (d) for any variations that are necessary or requested by the Hirer; and
  - (e) any duties, fees, outgoings, penalties, fines, demands, charges, or costs imposed by any authority on or in connection with

this Agreement or the renter's hiring of the Equipment.

- 2.4 If the Hirer requests the owner transport the Equipment to or from the Owner's premises, the Hirer shall pay the owner all charges and expenses incurred by the owner in delivery and collecting the equipment in addition to the Hire Charges.
- 2.5 The Hirer authorises the Owner to complete any documents necessary or desirable to enable the Hirer to make any payments through any credit card system.
- 2.6 If no terms of payment is specified in the Quotation, the Hire Charges must be paid in full no later than three days prior to the Start Date.
- 2.7 The Hirer authorises the Owner to debit the Hirer's credit card or deduct from the allocated Deposit any subsequent loss, damage or any Amounts Owing from the relevant invoice or quote.

### **3 INSPECTIONS**

- 3.1 All Equipment is checked, counted and cleaned prior to dispatch.
- 3.2 It is the Hirer's responsibility to check and ensure at delivery or collection of the Equipment that all of the ordered Equipment is in working order.
- 3.3 The Hirer must notify the Owner of any damages or missing items within eight hours of receiving the Equipment for hire.
- 3.4 If notice is not given by the Hirer within the time period required in clause 3.3, the Hirer expressly agrees that the Equipment is:
  - (a) in clean condition;
  - (b) in satisfactory working order;
  - (c) is fit for the purpose; and
  - (d) is of a quality and specifications ordered.
- 3.5 The Hirer acknowledges that it is aware of the proper use for which the Equipment hired is designed for.

### **4 TITLE TO EQUIPMENT**

- 4.1 The Hirer acknowledges that the Owner retains title to the Equipment and that the Hirer has rights to possess the goods as a mere bailee only.

- 4.2 The Hirer does not have any right to pledge the Owner's credit in connection with the Equipment and agrees not to do so.

- 4.3 The Hirer also agrees not to agree, attempt, offer or purport to sell, assign, sub-let, lend, pledge, mortgage let on hire or otherwise part with or attempt to part with the personal possession of or otherwise deal with the Equipment and not to conceal or alter the goods or make any addition or alteration to, or repair of, the goods.

### **5 INSPECTION**

- 5.1 The Hirer acknowledges that the Owner may inspect the Equipment at any time during the Hiring Period, whether notice of such inspection is given to the Hirer or not.
- 5.2 The Hirer shall provide all assistance and cooperation necessary to facilitate such inspection of the Equipment.
- 5.3 The Hirer shall indemnify the Owner's cost of exercising its right to inspect the Equipment.

### **6 PPSA**

- 6.1 The Owner may register its security interest that arises under this Agreement and in the Equipment and the proceeds from any dealing in the Equipment.
- 6.2 The Hirer agrees that it:
  - (a) must do all things necessary to enable the Owner to register and perfect its security interest in the Equipment under the PPSA including enabling it to register a financing statement;
  - (b) must take all reasonable steps to ensure any security interest arising under of the Agreement is enforceable, perfected and otherwise effective under PPSA;
  - (c) must not register a financing charge statement in respect of a security interest arising out of this Agreement without the Owner's consent;
  - (d) must not create a security interest in the Equipment, register or permit to be registered a financing statement in relation to the Equipment;

## **7 HIRER'S WARRANTIES**

7.1 The Hirer warrants that in selecting the Equipment the Hirer has not relied on the Owner's skill and judgment or on any representations made by or on behalf of the Owner and agrees that:

- (a) the Equipment complies with their description;
- (b) are in merchantable condition; and
- (c) are fit for the Hirer's purpose.

## **8 HIRER'S OBLIGATIONS**

8.1 The Hirer agrees that it will:

- (a) keep the goods in first class condition and only use them as they would be used by a careful and prudent owner;
- (b) not use the goods for any illegal purpose;
- (c) report any damage to, or loss of, the goods to the owner immediately such damage or loss occurs;
- (d) be liable for any breach of this agreement committed by the Hirer's servants or agents;
- (e) indemnify the Owner (including legal costs) incurred by the Owner in relation to any breach of this terms and conditions and for any liability arising out of any such breach.

## **9 CANCELLATIONS**

- 9.1 Agreements cancelled less than three days before the delivery date will be charged at the full hire rate plus transport (if any incurred).
- 9.2 Changes requested less than three days from the proposed Start Date will be limited to additions only.
- 9.3 All confirmed orders must be cancelled in writing.

## **10 LOSS AND DAMAGE**

- 10.1 To the extent permitted by law, the Hirer will be responsible for risk of loss, theft, damage or destruction to the Equipment from any and every cause during the Hiring Period.
- 10.2 If any Equipment during the Hiring Period is damaged, the Hirer shall:
  - (a) provide the Owner with prompt notice of such damage;

- (b) continue paying the Hire Charges for the term and any Amounts Owing under the Agreement; and
- (c) pay to the Owner the cost and expenses of restoring the Equipment to a clean condition and good working order.

- 10.3 The Hirer must ensure all Equipment is returned is in a clean, dry and properly packed condition.
- 10.4 If on the return of the Equipment to the Owner the equipment is found by the Owner to be in an unclean condition or not in a substantial working order, the Hirer shall pay the cost and expenses of restoring the Equipment to a clean condition and good working order.
- 10.5 Equipment items that include linen that are returned with burns, holes, rips and staple marks will be charged at full replacement cost.
- 10.6 If linen is returned unclean with stains including but not limited to candle wax, mould, rust, graffiti or heavy food and beverage stains that are unable to be restored to a clean condition by ordinary laundering procedures, are required to have expert cleaning, then that cost will be charged to the Hirer at the appropriate rate.
- 10.7 In case of total loss of the Equipment or if the Equipment is damaged to the extent that it cannot be restored, the Hirer will provide the Owner with prompt written notice of such loss and will pay to the Owner the full replacement cost of the Equipment as well any Amounts Owing under the Agreement.

## **11 DEPOSIT**

- 11.1 The Owner may require the Hirer to pay a Deposit held by the Owner, for the purposes of the Equipment hire.
- 11.2 If for any reason, the Equipment is damaged or lost during the Hiring Period, in addition to exercising any other rights which the Owner may have under the Agreement, the Hirer authorises the Owner to use the Deposit for any subsequent loss or damage to the Equipment.
- 11.3 If the Equipment is returned to the Owner on the Return Date in a clean condition and satisfactory working order, the Deposit must be refunded by the Owner to the Hirer.

## **12 INSURANCE**

- 12.1 The Hirer must at its own expense, take out and maintain all appropriate policies of insurance:
- (a) for theft and damage to the Equipment hired in an amount not less than the full replacement cost of the Equipment; and
  - (b) for public liability, property and casualty insurance in amounts necessary to fully protect the Owner and its equipment against all claims, loss or damage whatsoever.

## **13 REPOSSESSION**

The Owner may retake possession of the Equipment if the Hirer breaches any provision of this Agreement.

## **14 INDEMNITY**

- 14.1 To the extent permitted by law, the Hirer hereby releases, indemnifies and hold harmless the Owner against any and all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including damage and injury to person/s, death, loss of income, attorney's fees and costs, arising out of or related to the Hirer's use of the Equipment.

## **15 TERMINATION**

- 15.1 Either party may terminate the Agreement with 7 days' notice by serving a written notice on the other party if:
- (a) the other party breaches the Agreement and fails to remedy within 3 days of notification; or
  - (b) the other party becomes insolvent or bankrupt, or executes a personal insolvency agreement, enters into liquidation, administration or receivership or ceases to carry on business.
- 15.2 The Owner may terminate the Agreement if the Hirer fails to pay the Hire Charges pursuant to the payment terms under the Agreement.
- 15.3 the Owner may also terminate the Agreement at any time before the Start Date by giving the Hirer at least 24 hours' notice if the Owner is of the opinion that it can no longer hire the Equipment to the Hirer.
- 15.4 the right to termination is in addition to any other rights under the agreement.

- 15.5 if the Owner has terminated the Agreement with the Hirer pursuant to this clause 15, the Owner may take all steps necessary (including legal action) to recover the Equipment, including entering any site occupied by the Hirer.

- 15.6 The Hirer expressly provides the Owner consent to enter any site or premises upon of the Owner to recover any Equipment.

## **16 NO WAIVER**

- 16.1 Time is of the essence of this Agreement, except that no delay by the Owner in exercising any right or power will operate as a waiver of that right or power. Nor will any single or partial exercise of any right or power preclude any other or further exercise of that right or power.

## **17 GOVERNING LAW**

- 17.1 The Agreement will be governed by the law of Western Australia.

## **18 FORCE MAJEURE**

- 18.1 Neither the Owner or Hirer will be liable in damages for any delay or default in performance if such delay or default is caused by conditions beyond its control including if the Equipment is damaged before the Start date, but not limited to acts of God, government restrictions, wars, insurrections, natural disasters, such as earthquakes, hurricanes or floods or any other cause beyond the reasonable control of the party whose performance is affected.

## **19 ACCEPTANCE OF TERMS AND CONDITIONS**

- 19.1 The Hirer hereby unconditionally accepts these Terms and Conditions forming part of the Agreement and acknowledges that its acceptance is a condition precedent to taking possession of the Equipment from the Owner.