

## HIRE TERMS

### 1. Definitions

"Exhibit" means Exhibit Systems Pty Ltd ABN 78 091 935 116;

"Business Day" means a day that is not a Saturday, Sunday or any other day which is a public holiday or bank holiday in the place where an act is to be performed or a payment made;

"Customer" means the person or entity identified as such in the relevant Account Application or Hire Agreement, as the case may be;

"Default" means the non-performance of any obligation of the Customer under an Agreement;

"Environmental Law" means any statute, policy directions or regulation made or issued by a regulatory body or government body relating to the environment, including the use or protection of the environment;

"Goods" means any good, display, scaffolding, equipment, accessory and consumable supplied to the Customer by, or at the request of, Exhibit;

"Hire Agreement" means each agreement between Exhibit and the Customer in respect of the supply of Goods or services by Exhibit and which will be deemed to incorporate these Hire Terms;

"Hire Period" has the meaning given in clause 4.1; and

### 2. Hire

2.1 The Goods are hired to the Customer by Exhibit for the Hire Period on the terms of the Hire Agreement.

### 3. Title and Risk of Goods

3.1 The Customer acknowledges that Exhibit retains title and ownership of the Goods (despite any insolvency of the Customer) and the Customer and Exhibit expressly agree that the Goods will not, and it is not intended that Goods will become a fixture. The right of the Customer to use the Goods is as bailee only on the terms of the relevant Hire Agreement.

3.2 The Customer must not offer, transfer, sell, assign, sub-let, mortgage, pledge, encumber, create any security interest in, dispose of or otherwise deal with the Goods in any way which is inconsistent with the rights of Exhibit without Exhibit's written consent and must keep the Goods separately from other goods and identify the Goods as the property of Exhibit.

### 4. Hire Period and Risk

4.1 Subject to clause 4.3, the Hire Period commences on the earlier of when the Customer takes possession of the Goods or Exhibit delivers the Goods in accordance with the Customer's order. The Hire Period ends on the first to occur of:

- (a) the date agreed between the Customer and Exhibit for the end of Hire Period;
- (b) the date Exhibit validly terminates the Hire Agreement;
- (c) when the Goods are returned to the possession of Exhibit.

4.2 The Hire Period includes weekends and public holidays irrespective of whether the Customer uses the Goods during that time.

4.3 Subject to these Terms, the Customer is entitled to use the Goods for the Hire Period. Any variation to the Hire Period must be agreed in writing by Exhibit.

### 5. Hire and Other Charges

5.1 The Customer must pay Exhibit the hire charges at the rates set out in the Hire Agreement and any additional charges as specified under the Hire Agreement. If no rates are specified in the Hire Agreement, the applicable rates will be Exhibit's prevailing rates at the time of the Hire Agreement. The Customer is not entitled to any discount or rebate if the Goods are not used by the Customer for any part of the Hire Period.

5.2 In addition to the hire charges, the Customer must pay:

- (a) cartage fees at a rate of 20% of the hire charges;
- (b) damage waiver fees at a rate of 7% of the hire charges;
- (c) if payment is made by credit card, a credit card surcharge of 1.8%+GST;
- (d) where the order is placed after an exhibition deadline date, a late order surcharge of \$60; and
- (e) where an order has been placed after the commencement of exhibition, a surcharge of 20% of the hire charges.

5.3 Exhibit reserves the right to stipulate and charge a minimum Hire Period.

5.4 Despite any other term of the Hire Agreement, if the Hire Period ends and the Goods have not been returned to or collected by Exhibit, the Customer:

- (a) will cease to have the right to use or retain possession of the Goods;
- (b) will hold the Goods on trust for Exhibit;

- (c) must immediately cause the Goods to be returned to Exhibit;
  - (d) will be liable to pay Exhibit all applicable hire charges to the end of the Hire Period; and
  - (e) will pay post hire damages ("Post Charge") equal to 125% of the maximum daily hire charge for the Goods for each day after the end of the Hire Period the Goods have not been returned to Exhibit.
- 5.5 Exhibit and the Customer agree that the obligation to pay Post Charges will not affect the Customer's obligation to hold the Goods after the end of the Hire Period on trust for Exhibit.
- 5.6 The Customer will be liable for charges made for consumables provided by Exhibit.
- 5.7 The Customer will be liable for stamp/hire duty, GST and all other applicable taxes, duties, levies, penalties and any other government charges imposed under the Hire Agreement. Where the Customer claims exemption from duty or tax the Customer must furnish appropriate exemption certificate to Exhibit as a condition of Exhibit recognizing the exemption.
- 5.8 If the Customer requires Exhibit to deliver, collect or install the Goods, the Customer will be liable for the cost of delivery, collection or installation. Exhibit will not be responsible for any delays in delivery or installation or failure to deliver due to causes beyond its control including but not limited to acts of God, war, terrorism, mobilisation, civil commotion, riots, embargoes, orders or regulations or governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.
- 5.9 Despite Exhibit's agreement to collect Goods, the Customer remains responsible for theft, loss, abuse or damage to the Goods until the Goods are collected by or otherwise returned to Exhibit.
- 5.10 If the Customer returns the Goods before the date specified as the agreed date for the end of the Hire Period ("End Date"), the Customer will be liable for all hire and other charges for the Goods calculated from the commencement of the Hire Period to the End Date. Exhibit may, in its absolute discretion, accept an early return of the Goods, and if it does so, may attempt to re-hire the Goods, in which case the Customer will be liable for those hire and other charges payable up until the date of the commencement of the re-hire or until the End Date, whichever is earlier.
- 5.11 Unless Exhibit has otherwise agreed in writing, the Customer must pay all fees, charges and costs under the Hire Agreement before any of the Goods are delivered or installed by Exhibit.
- 5.12 Exhibit may set-off against any credit owed to the Customer any amount owing by the Customer to Exhibit.
- 6. Cancellation**
- 6.1 If a Customer cancels an order or hire after the Goods have been delivered or installed by Exhibit, the Customer is liable for and must still pay the full charges under the Hire Agreement to Exhibit.
- 6.2 If a Customer cancels an order or hire less than five (5) days before the Goods have been delivered or installed by Exhibit, the Customer is liable for and must still pay 50% of the charges under the Hire Agreement.
- 6.3 If a Customer cancels an order or hire less than fourteen (14) days before the Goods have been delivered or installed by Exhibit, the Customer is liable for and must still pay 25% of the charges under the Hire Agreement.
- 7. Customer Hire Obligations**
- 7.1 The Hire Agreement is personal to the Customer and the Customer will not allow nor authorise any other person or entity to use, re-hire or have possession of the Goods at any time. The Customer indemnifies Exhibit in respect of any loss or damage suffered by Exhibit as a result of a breach of this clause.
- 7.2 The Customer acknowledges and agrees that before accepting the Goods the Customer was satisfied based on the Customer's own enquiries as to the suitability, condition and fitness for purpose of the Goods. Subject to clause 9.2, Exhibit gives no warranty that the Goods are suitable for the Customer's stated or implied purpose.
- 7.3 The Customer must not in any way alter, modify, tamper with, damage or repair the Goods without Exhibit's express written consent.
- 7.4 The Customer must ensure that when the Goods are in the Customer's possession or control, the Goods are insured and continue to be insured for the full replaceable value of the Goods and stored safely and securely and protected from fire, flood, theft, seizure or damage with evidence of the insurance, if so requested by Exhibit.
- 7.5 The Customer must not in any way alter, deface, remove or erase any notices, safety information, identifying mark, plate or number on the Goods.
- 7.6 The Customer consents to Exhibit inspecting the Goods from time to time whilst the Goods are in the Customer's possession or control. For this purpose, the Customer and Exhibit agree that during the period of any inspection by Exhibit, Exhibit will have exclusive possession and control of the Goods to the exclusion of any other person and may alter, test, repair or replace all or any of the Goods with other Goods. In addition, the Customer may arrange a joint inspection of the Goods with Exhibit before the end of the Hire Period.

- 7.7 The Customer must not remove the Goods from the state in which the Goods were hired without Exhibit's written consent. The Goods must be returned to the same location from which they were supplied by Exhibit.
- 7.8 The Customer must, at all times, use the Goods in a proper manner and must, at its own expense, service, clean and maintain the Goods in good and substantial repair.
- 7.9 The Customer must notify Exhibit of any problems with the Goods upon delivery or installation, failing which the Customer may not make any claim in respect of the Goods or under the Hire Agreement.

#### **8. Goods Breakdown**

- 8.1 Obligations of the Customer: In the event that the Goods become unsafe to use, break down or fail the Customer will:
  - (a) Immediately stop using the Goods and notify Exhibit;
  - (b) Take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Goods;
  - (c) Take all steps necessary to prevent any further damage to the Goods, and
  - (d) Not repair or attempt to repair the Goods without Exhibit's written consent.
- 8.2 Obligations of Exhibit: In the event that the Goods become unsafe to use break down or fail through no fault, negligence or misuse by the Customer, Exhibit will:
  - (a) Take all steps necessary to repair the Goods or provide suitable substitute Goods (if available) as soon as reasonably practicable after being notified by the Customer during which time Exhibit will have exclusive possession and control of the Goods;
  - (b) Not impose a hire charge for that portion of the Hire Period for which the Goods were unsafe or unable to be used under this clause 9.2, nor the costs associated with any repair or replacement of the Goods under this clause 9.2, and
  - (c) Not be liable for any expenditure, damage, loss or inconvenience incurred by the Customer arising from a breakdown of the Goods, however so caused.

#### **9. Lost, Stolen and Damaged Goods**

- 9.1 The Customer is responsible for the Goods and associated accessories whilst in the Customer's possession or control. If the Goods are lost, stolen or deliberately damaged whilst in the Customer's possession or control, the Customer will be liable for and immediately pay on demand:
  - (a) Any costs incurred by Exhibit in repairing or replacing the Goods, and
  - (b) Any other costs incurred by Exhibit as a result of the loss, theft or damage of the Goods, including applicable hire charges when the damage was caused by the negligence or act or omission of the Customer.

#### **10. Exclusion and Indemnity**

- 10.1 Subject to clause 11.2 and except as expressly provided to the contrary in the Hire Agreement, all warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating to Exhibit's obligations under the Hire Agreement are excluded.
- 10.2 Where any law mandates or implies a term, condition, guarantee, representation or warranty in the Hire Agreement ("Relevant Law"), to the extent permitted under the Relevant Law, that term, condition, guarantee, representation or warranty is expressly excluded by agreement between Exhibit and the Customer. Nothing in the Hire Agreement will operate to exclude any term, condition, guarantee, representation or warranty which is mandated by Relevant Law and cannot be excluded. To the extent permitted by the Relevant Law, Exhibit and the Customer agree that the liability of Exhibit for breach of a term, condition, representation, guarantee or warranty is, at Exhibit's election, limited to the repair or replacement of the Goods or the supply of substitute Goods (or the cost of doing so) and any liability of Exhibit for damages will not be greater than the applicable hire charges under the Hire Agreement.
- 10.3 Subject to clause 12.2, Exhibit will not be liable to the Customer for consequential loss or damage (including loss of actual or anticipated profits or revenue, economic loss of any kind or any loss suffered as a result of any claim or claims by a third party) in contract, tort (including negligence) under statute or otherwise from, or in relation to, the Goods or the Hire Agreement.
- 10.4 The Customer is liable for and indemnifies Exhibit in respect of any liability, claim, loss or expense (including legal fees, costs and disbursements on an indemnity basis), any loss or damage to property or persons and any environmental loss, cost, damage or expense of Exhibit arising from the Customer's hire or use of the Goods, any Default or the Customer's breach of the Hire Agreement. Each indemnity by the Customer is a continuing obligation, separate and independent from any other obligation and will survive the termination or expiry of the

Hire Agreement. The Customer must pay on demand any amount it must pay under an indemnity given by the Customer.

10.5 For the purposes of each Hire Agreement, any use of the Goods by a person made available to the Customer by Exhibit, will be deemed to be use of the Goods by the Customer.

10.6 It is the Customer's responsibility to ensure that it does not leave any of its property or chattels in or on the Goods immediately prior to the return or collection of the Goods and Exhibit will not be liable to the Customer for any such loss.

#### **11. Termination**

11.1 Exhibit may terminate the Hire Agreement immediately by notice to the Customer, if:

- (a) a Default occurs;
- (b) The Customer breaches any term of the Hire Agreement,
- (c) The Customer takes any action, permits or causes any action to be taken which prejudices Exhibit's rights in the Goods; or
- (d) In the absolute opinion of Exhibit, the Customer becomes unable to pay the Customer's debts as and when they become due, is insolvent or otherwise ceases to carry on business.

11.2 Exhibit may terminate the Hire Agreement without cause on 24 hours' notice to the Customer.

11.3 Any termination of the Hire Agreement will not affect any accrued right of Exhibit or any provision of the Agreement expressed or intended to survive such termination.

#### **12. Recovery of Goods**

If the Customer is in breach of the Hire Agreement or if Exhibit has terminated the Hire Agreement, Exhibit may take any step, including legal action, to recover the Goods, including by entering the Customer's premises or such premises where the Goods are located and the Customer irrevocably authorises Exhibit and its agents to do so. The Customer indemnifies Exhibit in respect of any claims, damages or expenses arising out of any action taken under this clause.

#### **13. General**

13.1 To the extent of any inconsistency between any agreement between the Customer and Exhibit, including any terms or order of the Customer, these Hire Terms will prevail.

13.2 If a court determines that a word, phrase, sentence, paragraph or clause of this deed is unenforceable, illegal or void, it is severed and the other provisions of this deed remain operative.

13.3 The Hire Agreement is governed by the laws of New South Wales and each party submits to the non-exclusive jurisdiction of the courts of that State. The Customer will not object to Exhibit bringing any proceedings in respect of the Hire Agreement or recovery of the Goods in the Courts of New South Wales.

13.4 The Hire Agreement including these Hire Terms, comprise the entire agreement between the parties. No additional terms and conditions proposed by the Customer (including any terms contained in any purchase order of the Customer) will apply unless agreed in writing by Exhibit.

13.5 The Customer acknowledges that neither Exhibit nor any person acting on Exhibit's behalf has made any representation (including in relation to the use of the Goods) or given any inducement to the Customer to enter into the Hire Agreement.

13.6 Exhibit may at any time vary the Hire Agreement by giving the Customer 30 days' notice of intention to do so. Any other variation must be agreed in writing by Exhibit and the Customer.

13.7 The Customer may not assign any part of the Hire Agreement without the written consent of Exhibit. Such consent will not be unreasonably withheld. Exhibit may at any time assign the Hire Agreement or subcontract any of its obligations to a related entity at its discretion. Any such assignment or sub-contracting is not required to be notified to the Customer.

13.8 The Customer agrees to be bound by Exhibit's Privacy Policy.

13.9 Any notice may be given by Exhibit by leaving it at or posting it to the address of the Customer stated in the Hire Agreement and will be deemed to have been served at the time of leaving or, if posted, on the second Business Day following the day of postage. Any notice may be signed by an officer, manager or solicitor of Exhibit.

13.10 No delay or omission to exercise any right, power or remedy accruing to Exhibit upon any continuing breach or default under the Hire Agreement will impair any such right, power or remedy, nor will it be construed to be a waiver of any right of Exhibit to take action or make a claim in respect of any breach by the Customer.

13.11 Any credit granted by Exhibit to the Customer may be reviewed or withdrawn at any time without cause.

13.12 Any person signing a Hire Agreement for and on behalf of the Customer warrants to Exhibit that the person has the authority of the Customer to bind the Customer to the Hire Agreement and the person indemnifies Exhibit

against any loss, cost or expense incurred by Exhibit if it transpires that the person signing the Hire Agreement did not have the requisite power or authority to bind the Customer.

13.13 If the Customer acts as trustee of any trust, the Customer enters into each Hire Agreement in its personal capacity and in its capacity as trustee.

13.14 Time is of the essence in fulfilling all obligations of the Customer under the Hire Agreement.

13.15 Exhibit is not obliged to hire any Goods to the Customer and may reasonably refuse to hire.