



## Hire Terms & Conditions

### 1 General

- 1.1 If you are hiring on behalf of a business or organisation you confirm that you have the necessary authority to enter into this contract on behalf of that business or organisation, and that you will indemnify us against all losses and expense which may be incurred if this is not the case.
- 1.2 COG Audio Visual reserve the right to decline some or all of your order, for any reason.
- 1.3 These Terms and Conditions are subject to change without notice.

### 2 Contract

- 2.1 You may place your hire order with COG Audio Visual by email, phone, mail or in person.
- 2.2 We will provide you with an order quote confirming availability (or otherwise) of the Equipment to be hired by you ("the Equipment") and stating total costs including installation, delivery or other applicable charges. We will also provide you with a set of these terms and conditions.
- 2.3 The contract between us will be formed when you advise us in writing that you accept the order quote. The order quote is open for acceptance within the period stated, however if no such period is stated then within 30 days of the date of the order quote.
- 2.4 These terms and conditions (which shall only be waived or amended in writing and signed by COG Audio Visual) shall prevail over all other conditions, including your order/confirmation conditions, if any and to the extent of any inconsistency.

### 3 Hire Charges

- 3.1 COG Audio Visual's hire charges and all other applicable charges will be as shown in the order quote. The order quote will also show the date the charges will start from and the period of the hire.
- 3.2 You should return all equipment to us no later than 10:00am on the date shown on the contract and all equipment should be clean and in good working condition.
- 3.3 You agree to reimburse COG Audio Visual for all costs in connection with cleaning, repairing or replacing Equipment not returned in clean and good working condition and will be liable for charges at the daily rate shown in the order quote for the period of such repair, cleaning or replacement.
- 3.4 COG Audio Visual reserve the right to impose additional charges at the daily rate for the period in which any item of Equipment is not available for use by our other customers because of your breach of these terms and conditions.
- 3.5 Where cables and connectors are returned to us not properly coiled and taped and/or with rigging tape still attached, an additional charge may be enforced based on an hourly rate to clean and/or re-roll such cables and connectors.
- 3.6 Where we have taken a deposit we may retain the whole or part of this in order to set against any liability you have to us in relation to the hire of the equipment.

### 4 Equipment

- 4.1a All Hires and Events are to be paid in full prior to the event or collection of equipment.
- 4.1b At our discretion we may allow payment to be within a 7,14 or 30 day time frame or we may ask for a deposit prior to delivery with the balance within the allowed time frame. The precise structure of payment will be specified in the order quote.

4.2 COG Audio Visual accept payment by cash, credit card, cheque or Via Bank transfer.

Surcharges may apply.

4.3 Where any payment is not made by the date specified in the order quote we shall be entitled to charge reasonable collection fees and interest on the outstanding amount/s at the rate of 1.5% per month to be calculated on a daily basis from the date of due payment until the date of actual payment or judgment.

## **5 Delivery**

5.1 COG Audio Visual only deliver to customers who has asked for delivery and have agreed on a time and price; all goods must be signed for by an adult aged 18 or over.

5.2 Equipment will be delivered in good working order. Unless notice is received to the contrary as soon as reasonably practicable and in any event no later than within 24 hours of delivery. Equipment will be deemed to be in good working order, except for defects not detectable by reasonable examination.

5.3 Our estimated time for delivery will be stated in the order quote. We hope to deliver these estimates but occasionally delays will occur, despite our best efforts. We will not be liable for any loss, damage, or expense resulting from any delay or failure to deliver within such estimated timescales or for loss or damage to Equipment occurring during delivery.

## **6 Installation**

6.1 Installation charges will be shown in the order quote. COG Audio Visual may wish to carry out a site inspection before installation and you agree to allow us such access as we reasonably require for this purpose.

6.2 Where we are prolonged or unable to carry out installation through error or fault on your part or the venues, we reserve the right to charge for our time at the rates shown on the order quote.

## **7 Risk**

7.1 The risk in the Equipment will pass to you upon delivery or installation, or, where you choose to uplift the Equipment directly, at the moment of uplift.

7.2 When uplifting the Equipment directly from us you should ensure that you have suitable transport as we reserve the right to refuse removal of Equipment where appropriate arrangements for safe and lawful transport of the Equipment has not been made. If the start of the hire is delayed for this reason we reserve the right to charge at the daily rate shown in the order quote during the period of delay.

## **8 Cancellation**

8.1 You will not be entitled to cancel the contract once the Equipment has been uplifted or delivered, unless we agree to such cancellation.

8.2 COG Audio Visual reserves the rights to charge cancellation fees. If you decide to cancel, notice must be provided in writing. In these circumstances, we reserve the right to levy a cancellation charge equal to a percentage of the order, calculated as follows:

8.2.1 once confirmed, 25% of the Charges;

8.2.2 fewer than 5 working days before the Commencement date and time, 50% of the Charges;

8.2.3 less than 2 working days before the Commencement date and time, 100% of the Charges,

8.3 In addition to the Cancellation Charge, you must reimburse us for any costs incurred by us in preparation for the provision of our services including, but not limited to, the cost of the manufactured items, production charges, venue charges and entertainment charges where such costs have not already been paid to us.

8.4 If you are a private customer cancelling, then you must advise us in writing immediately or by email. We are not obliged to accept cancellation on the hire date or once the goods have been collected.

## **9 Your responsibilities**

9.1 You will make all reasonable efforts to ensure that the Equipment is not damaged or misused during the period of the hire. This includes ensuring that the Equipment can safely be used with any other equipment which you use.

9.2 You are responsible for and required to check that all items and Equipment that has been delivered, that all items are accounted for prior to and post use at pick up. 9.3 You will make all reasonable efforts to ensure that any person operating or using the Equipment during the period of the hire is instructed in the safe and proper operation of the Equipment.

9.4 You shall not sell or attempt to sell or otherwise dispose of the Equipment.

9.5 You shall reimburse COG Audio Visual for all costs in connection with repairing or replacing Equipment not returned in good condition, pay us the full retail cost of

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any Equipment which is lost stolen or damaged beyond economic repair, and insure the Equipment against such liability.

9.6 You agree to pay the full daily rate for all items of Equipment which require to be replaced or repaired until such repair or replacement has been completed.

9.7 COG Audio Visual give no warranty as to the suitability of the Equipment for any particular purpose required by you. You warrant that you have read and understood the manufacturers specifications in respect to the Equipment.

9.8 This clause 9 shall not affect your statutory rights or seek to exclude liability which cannot be excluded under the Trade Practices Act 1974 "as amended".

#### **10 Maintenance**

10.1 You agree to properly maintain the Equipment during the period of the hire and to notify us as soon as reasonably practicable if there is a problem with the operation of any item of Equipment.

10.2 Any damaged or faulty item of Equipment should be returned, at your expense (subject to clause 10.3) to us. In no circumstances should you proceed to repair any item of Equipment without our prior approval.

10.3 Where the problem with the Equipment is caused by a fault not discoverable by reasonable examination in terms of clause 5.2 above, we will reimburse you for reasonable transportation costs and for hire charges during the period when the Equipment could not be used due to this fault. However our obligation under this clause does not cover faults caused by misuse wear and tear, accident or neglect.

10.4 You shall not alter or modify the Equipment or use it for purposes for which it is not designed.

10.5 You agree that we have a right of access to the Equipment in order to inspect, repair or replace it and you authorise us to enter any property where the Equipment is located or where we reasonably believe it to be located, to carry out such inspection, repair or replacement.

#### **11 Liability and Indemnity**

11.1 To the fullest extent permissible under law, we will not be liable for any losses (direct, indirect or consequential) you incur arising out of or in connection with the hire of the Equipment.

11.2 Notwithstanding the terms of clause 7.1 in the event that we are held liable for losses which you have incurred arising out of or in connection with the hire of the Equipment, our liability to you shall be limited to a sum equal to the amount paid by you for the Equipment hired or the cost to us of re-hiring the Equipment to you.

11.3 You agree to indemnify us at all times in respect of all claims by any person in relation to any injury, loss, claim or expense arising out of or in connection with the use of the Equipment

11.4 If you are a consumer, this clause 11 does not affect your statutory rights.

#### **12 Termination of Hire**

12.1 COG Audio Visual shall be entitled to terminate the contract immediately and to repossess the Equipment at any time where you are in breach of these terms and conditions, or you take any steps, or if any process or action is started which, in our reasonable opinion suggests that your solvency is in doubt.

12.2 Where the provisions of clause 12.1 apply, you authorise us to enter any property where we reasonably believe Equipment to be, in order to repossess such Equipment.

#### **13 Governing law**

13.1 These terms and conditions and the contract for the hire of the Equipment are governed by law of NSW and are subject to the exclusive jurisdiction of the NSW Courts.

#### **14 Force Majeure**

14.1 Audio Visual Events shall not be liable for any delay or failure to perform its obligations if such failure or delay is due to Force Majeure.

#### **15 GST**

15.1 Unless otherwise stated all costs quoted by COG Audio Visual are net, exclusive of Goods and Services Tax ("GST").

15.2 You will bear all liability for GST and shall not require COG Audio Visual to pay to you any amount on account of GST. In addition, COG Audio Visual will be entitled to recover from you any GST paid or payable by us in respect to the hiring of the Equipment.

#### **16 Credit**

16.1 COG Audio Visual shall be entitled without notice to terminate any credit arrangement with you in the event of you defaulting in respect to any of these terms and conditions or our order quote or for any other reason which we need not make known to you.

16.2 COG Audio Visual shall be entitled at any time to request such security or additional security as we shall in our discretion think fit and shall be entitled to withhold supply of the Equipment or any credit arrangements until such security or additional security is provided by you.

16.3 Any outstanding amounts on Overdue accounts will be subject to interest at the rate prescribed by the Penalty Interest Rates Act plus 2%, calculated daily from the due date until paid in full and, together with any legal expenses incurred by us (on a fully indemnified basis) in relation to recovering the outstanding amounts, will be payable on demand.

### **17 Copyright and Intellectual Property**

“Confidential Information” means the provisions of this agreement, Intellectual Property Rights, all information (in any form) of, related to or connected with COG Audio Visual's operations and affairs including financial, budgetary, marketing, research and business plan information; trade secrets, licences, quotations, master material, know-how; customer lists and supplier lists; all other information (in any form) of a confidential nature directly or indirectly disclosed by or on behalf of COG Audio Visual to any other party or parties to this agreement; and all material, analyses, compilations, calculations, conclusions, summaries or other material derived or produced from, or incorporating any of, the information referred to in this definition.

“Intellectual Property Rights” means all intellectual property rights throughout the world, including all registered and unregistered rights of copyright, designs, plans, circuit layouts, workshop drawings, trade-marks, master material files or information including but not limited to trade secrets, know-how, moral rights, confidential information, patents, inventions, discoveries and domain names and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation.

17.1 You agree and warrant that you must/will:

- a) keep the Confidential Information confidential and not disclose, or cause or permit the disclosure of, any Confidential Information to any person, except as permitted by this agreement or by law or with COG Audio Visual's prior written consent;
- b) maintain proper and secure custody of the Confidential Information and keep it protected from any use, disclosure or access inconsistent with this agreement and do all things necessary, prudent or desirable to safeguard confidentiality of Confidential Information;
- c) not make, permit, solicit or assist any other person to make, any announcement, public statement, press release or any other communication or disclosure concerning any Confidential Information without COG Audio Visual's prior written consent; and
- e) comply with COG Audio Visual's reasonable directions about Confidential Information.

17.2 You further agree and warrant that you must/will:

- a) notify COG Audio Visual immediately if you suspect, or become aware of, unauthorised use, or disclosure of Confidential Information;
- b) immediately take all reasonable steps to prevent or stop any suspected or actual unauthorised use of Confidential Information; and
- c) promptly do anything that COG Audio Visual reasonably requires to restrain a breach or suspected breach of this agreement or any infringement or suspected infringement of the Discloser's rights under this agreement; or enforce this agreement, whether by court proceedings or otherwise.