

Excel Events Terms and Conditions

1. Definitions

'Equipment' means the items hired out by the Owner to the Hirer. 'Hirer' means any person who requests the Owner to hire Equipment to it, including its employees and agents. "Owner" means Excel Events ABN 98 342 231 329, its employees and agents. 'Terms' means these terms and conditions.

2. Terms of Payment

The Hirer agrees to pay the Owner's hire charge and any other charges, including charges for loss, damage and repairs or any tax, GST, duty, levy, or other expenses paid or payable by the Owner. If not otherwise specified by the owner in writing all hiring charges including taxes and duties are to be paid prior to delivery of the equipment. Subsequent charges for loss, damage, repairs or other expenses are to be paid within seven days of the relevant invoice. The Hirer agrees to pay any expenses incurred or loss suffered by the Owner as a result of breach by the Hirer of its obligations pursuant to these Terms (including legal costs on a solicitor-client basis). The Hirer acknowledges and agrees that the Owner may pay a rebate, commission or other financial benefit to event organizers or like suppliers in connection with the hiring of the Equipment to the Hirer.

3. Termination of Hire

The Owner may terminate the hire at any time. The Hirer shall have no claims for such termination. The Hirer may terminate the hire of the Equipment by:

- (a) returning the Equipment to the Owner during normal working hours; or
- (b) notifying the Owner that the Equipment is ready for collection, provided that the Hirer keeps the Equipment safe until collection. Upon termination of hire, the Owner is entitled to take possession of the Equipment immediately and for this purpose the Hirer irrevocably appoints the Owner as his agent and authorizes the Owner to:
 - (i) enter upon any land or premises upon which the Equipment is situated or where the Owner has any reason to believe that the Equipment may be situated;
 - (ii) remove the Equipment whether or not it is affixed to the land or premises, connected to property or equipment not owned by the Owner, in use by the Hirer or any other person or containing property not owned by the Owner. If the Equipment is not finally returned or ready for pick-up by the Owner at the expiration or termination of the hire period the Hirer shall pay an additional charge of 100% the daily rate for every additional day or part thereof that the Equipment is retained by the Hirer unless otherwise specified by the Owner.

4. The Hirer's Obligations

The Hirer will:

- (a) bear responsibility for the Equipment hired from the time of its delivery until collection by or return to the Owner;
- (b) upon installation, delivery or collection of the Equipment immediately examine the Equipment to satisfy itself as to its condition and suitability and fitness for the purpose to which it requires the Equipment. In accepting the Equipment the Hirer acknowledges that it has duly examined the Equipment and has satisfied itself as required. The Hirer acknowledges that it has not in any way relied upon the skill or judgment or any representation made by or on behalf of the Owner in respect of the Equipment, its purpose, suitability or performance. Should the Hirer alter its installation or delivery requirements prior to, during, or after installation or delivery, the Hirer is liable for all extra costs of the Owner's employees and cartage;
- (c) assume the risk of and indemnify and hold the Owner harmless from and against any and all property damage and personal injury resulting from:
 - (i) the use of the Equipment;
 - (ii) contact with underground cables, pipes, services or other obstructions;
 - (iii) all necessary surface repairs.
- (d) use the Equipment in a proper, safe and prudent manner and only for the purpose and capacity for which it was designed.
- (e) ensure all Equipment is returned or ready for collection by the owner's driver, in a clean, dry and properly packed condition and if being collected, is readily accessible. The Hirer will pay for all cleaning or drying costs and for any damage resulting from not properly drying, cleaning and/or packing the Equipment.

5. Release of Indemnity

The Hirer hereby releases the Owner from, and agrees to indemnify the Owner in respect of any third party claims, action, suits, demands, costs and expenses for damage or injury to person or property arising directly or indirectly out of the hire or use of the Equipment by the Hirer or these Terms.

6. Severance and Waiver

If any part of this agreement is found to be void, unlawful, or unenforceable then that part will be deemed to be severed from the agreement and the severed part will not affect the validity and enforceability of any remaining provisions. Any waiver of the Owner's right under this agreement must be in writing and signed by an authorized representative of the Owner.

7. Jurisdiction

The agreement shall be deemed to have been made in Victoria and shall be interpreted in accordance with the Laws of Victoria, Australia, and the parties submit to the exclusive jurisdiction of the Victoria Courts.

8. Cancellation

In that the event is cancelled or postponed, the Hirer will notify the Owner at the earliest possible time. If the Hirer cancels up to a week out from the event date, the Owner will be paid 10% of the hire fee. If the event is cancelled or postponed within one week to 24 hours prior to the event, the Hirer will pay 50% of the hire fee. If the event is cancelled with less than 24 hours' notice, the Hirer will pay the full fee.

9. Streamer/Crepe Paper

Under no circumstance is any form of streamers dyed paper (crepe paper) or stickers be hung in or around the marquees/tents/clear span structures or pagoda. Dye paper will run when wet and permanently stain the fabric. If this occurs the hirer will be charged the full replacement cost of the fabric.

10. Default

If the Hirer:

- (a) Breaches any term;
- (b) Becomes bankrupt (individual) or insolvent (corporation) Then Excel Events may 'without prejudice to any other remedy available to it:
- (c) Require immediate payment of all owed by the Hirer to Excel Events;
- (d) Charge the Hirer interest on any sum due at the prevailing rate pursuant to the Penalty Interest Rate Act 1983 (Vic) until the date of payment in full;
- (e) Charge the Hirer for all costs and expenses (including without limitation all legal costs and expenses) incurred by Excel Events by enforcing compliance with the Terms or recovering the goods;
- (f) Charge the Hirer for the cost of repairing or replacing any lost, damaged or destroyed goods;
- (g) Charge the Hirer for subsequent lost hire charges as a result of goods being lost, damaged or destroyed until the goods are repaired or replaced;
- (h) Claim damages from the Hirer for breach of the Hire Contract; and/or
- (i) Cease or suspend supply of any further goods to the Hirer.

12. Property

The Hirer acknowledges that the Owner may inspect the Equipment at any time during the period of hire, whether notice of such inspection is given to the Hirer or not, and the Hirer shall provide all assistance and co-operation necessary to facilitate such inspection of the Equipment. The Hirer shall indemnify the Owner in relation to any action of trespass or any other action or claim against the Owner in the course of the Owner exercising its right to inspect the Equipment. The Hirer acknowledges that all property in and title to the Equipment at all times remains with the Owner, the Hirer does not acquire any property in or title to the Equipment and the Hirer's interest in the Equipment is as Bailee of the Owner only.

13. Loss of or Damage to the Equipment

If the Equipment is lost, breaks down or is damaged, the Hirer

must immediately notify the Owner of the details. Notification shall not absolve the Hirer from its obligations under these Terms. In the event that the Equipment breaks down or becomes unsafe to use, the Hirer shall immediately stop using the Equipment and take all steps necessary to prevent the Equipment from sustaining any further damage. The Hirer must also take all steps necessary to prevent injuries from occurring to any person or property as a result of the condition of the Equipment and must not repair or attempt to repair the Equipment without the Owner's prior written consent. If the Equipment is lost or damaged and the loss of or damage to the Equipment is caused by the negligence or wilful act of the Hirer or the breach of any of these Terms by the Hirer, the Hirer shall without limitation be liable for the following; (a) any costs incurred by the Owner in repairing or replacing the Equipment; (b) hire charges for the Equipment until the Equipment is repaired or replaced; (c) any other costs whatsoever incurred or loss suffered by the Owner as a result of the damage to or loss of the Equipment.

14. Damage Waiver

The Hirer agrees to pay a damage waiver to the Owner to cover the costs associated with the normal wear and tear to the Equipment. The damage waiver does not apply to or cover any other damage to or loss of Equipment including, without limitation:

- (a) damage resulting from overloading, exceeding rated capacity, misuse, abuse or improper servicing of Equipment;
- (b) damage or loss due to disappearance of the Equipment;
- (c) damage caused by the use or operation of Equipment in contravention of any of these Terms;
- (d) damage to, or loss of, the Equipment from any unknown cause.

15. Insurance

The Hirer will maintain at its own expense 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;

(b) For liability, property and casualty insurance coverage in amounts necessary to fully protect the Owner and its Equipment against all claims, loss or damage whatever.

16. Force Majeure

If the Owner 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) the Owner may give written notice to that effect to the Hirer, giving full particulars of such force majeure in which case the obligations of the Owner under these Terms shall, to the extent that they are affected by the force majeure, be suspended during the term of the force majeure. The Owner shall not be liable for any loss or damage suffered by the Hirer as a result of any delays caused by such force majeure events.

17. Miscellaneous

If any of the Terms becomes void or unenforceable for any reason then that part will be severed from these Terms to the intent that all other parts that do not become void or unenforceable will remain in full force and effect and be unaffected by any severance of other parts. Failure by the Owner to insist upon strict performance of any of these Terms, or to exercise in whole or in part any right that it may have under these Terms or at law, shall not be deemed to be a waiver of any rights that the Owner may have and shall not be deemed a waiver of any subsequent breach by the Hirer of any of these Terms. These Terms shall be governed by and construed in accordance with the laws of the State of Victoria.

18. Site Approval

The Hirer shall be responsible giving any local or other authorities any necessary notice of their intention to erect the equipment or to have the equipment erected and pay all fees in connection therewith. The Hirer shall be solely responsible to ensure that the site is cleared and ready for the erection of the equipment and that the foundations upon which the equipment is to be erected are sufficiently firm and otherwise suitable to safely carry the equipment load without collapsing. In the event that the Owner incurs or suffers any loss, cost or damages as a

consequence of the hirer failure to carry out its obligations under these terms the hirer shall be solely responsible and shall indemnify the Owner for any loss, cost or damages.

19. Misuse of Equipment

The Owner shall not be liable for any loss or damages arising out of the overloading, exceeding rated capacity, misuse, or abuse of the equipment by the hirer and the Hirer agrees to keep the owner indemnified in respect thereof.

20. Security

The Hirer is responsible for the security of the equipment until such time as it is returned to or collected by the Owner. In the event of the equipment being stolen the Hirer shall notify the Owner in writing stating the full circumstances of the theft and the time police were notified. Until the Owner receives such notification, the hiring charges will continue. The Hirer shall also indemnify the Owner for any such loss of the equipment at the current replacement cost of the equipment and must pay the Owner on demand. The Hirer must ensure that there is provided lighting, waterproofing, safe power supply, public protection, covering of power lines and such facilities as might be considered necessary for the requirement of authorities or in the interest of safety.

21. Access To Site

The Hirer shall ensure that suitable access to and egress from the site is adequate to suit the mode of delivery or pick up.

22. Cleaning

The equipment must be returned in a clean state by the Hirer. All catering equipment including cutlery, crockery and glassware is to be rinsed with all excess food stuffs removed. Equipment returned heavily soiled or food stuffs not removed will incur a charge to the Hirer.

23. Payment.

- (a) 50% deposit on acceptance of the order by the Owner
 - (b) 50% payment due prior to commencement of installation for the hire period.
- The Owner is not obliged to deliver possession of the equipment to the Hirer until funds given in payment of the Price are cleared.

24. Quotation

Unless otherwise stated in writing the Owners quotation will be valid for a period of up to thirty (30) days from the date of issue, after which time acceptance of any order placed is subject to a written confirmation. Acceptance of the quotation is subject to written confirmation, payment of deposit, or purchase order and the Owners terms and conditions of hire signed by an authorized person on behalf of the Hirer. On commencement of the hire without the Hirers written confirmation to such action it shall be deemed that the Hirer agrees to and accepts these terms and conditions.

I/We, the Hirer acknowledge that we have read, understand and agree with the Terms and Condition of Hire as set out in the above agreement.

Signature

_____/_____/_____
Date