



RENTERTAINMENT

EQUIPMENT HIRE CLIENT AGREEMENT

The following terms & conditions, and the terms of any Quotation (the **Client Agreement**), apply exclusively to the supply of the Equipment Hire Services by Magnetic Moments Pty Ltd (ABN 80 144 897 523), trading as Rentertainment (**Rentertainment**) to the Client and cannot be varied or superseded by any other terms, including, without limitation, any Client Agreement on purchase orders or published elsewhere, unless expressly agreed in writing by Rentertainment. By approving a Quotation, taking delivery of, or otherwise accepting any Equipment Hire Services, the Client agrees to be bound by these Terms & Conditions. To the extent of any inconsistency between one or more terms of a Quotation and these Terms & Conditions, the relevant terms of the Quotation will prevail.

1. DELIVERY AND SUPPLY OF EQUIPMENT HIRE SERVICES

- (a) Rentertainment will provide the Hire Equipment Services for the Event, and procure nominated Rentertainment Representatives to:
 - (i) deliver the Hire Equipment to the Site on the Event Date, at the times specified in the Quotation;
 - (ii) set-up the Hire Equipment at the Event and ensure it is operating properly;
 - (iii) where stated in the Quotation, operate or otherwise supervise the operation of the Hire Equipment for the duration of the Hire Period; and
 - (iv) pack-down and remove the Hire Equipment at the times specified in the Quotation.
- (b) Property in and title to all items of Hire Equipment at all times remains with Rentertainment.
- (c) The Client agrees that Rentertainment may engage sub-contractors to perform some or all of its obligations under this Agreement including the Specialised Equipment Hire Services.
- (d) Where Rentertainment is supplying Specialised Equipment Hire Services for the Event, the Client acknowledges and agrees that the services are being performed by Rentertainment's independent sub-contractor and not Rentertainment. Due to the specialised nature of the Specialised Equipment Hire Services, the Client acknowledges and agrees that it is not possible for Rentertainment to perform those services and accordingly, the Client agrees to provide the release in favour of Rentertainment, as set out in clause 5(f) below.

2. FEE & PAYMENT TERMS

- (a) In consideration for the Equipment Hire Services supplied and performed by Rentertainment, the Client agrees to pay the Fee to Rentertainment in accordance with the terms specified in the Quotation.

- (b) Where noted in the Special Conditions, the Client may be required to make payment of a security deposit (**Security Deposit**). Rentertainment is entitled to use the security deposit to pay (in whole or in part) for any Loss it may suffer as a result of the Client breaching the Client Agreement. Rentertainment will refund any unused portion of the Security Deposit to the Client.
- (c) Payment of the Fee and any Security Deposit must be made by either credit card (VISA/AMEX/MASTERCARD), electronic funds transfer or if pre-approved by Rentertainment by cheque payable to Rentertainment.
- (d) All amounts set out in the Quotation are exclusive of GST unless stated. The Client agrees to pay any applicable GST on amounts owing in the Quotation, as specified in Rentertainment's valid tax invoice.

3. CHANGE TO QUOTATION

- (a) The Client may request a change to the Hire Equipment in writing (**Change Request**) although Rentertainment is under no obligation to accept a Change Request.
- (b) If Rentertainment is willing to accept a Change Request, it will notify the Client in writing of any corresponding amendments to the Quotation including any additional fees which will apply to the Change Request (**Quotation Changes**). If the Client approves the Quotation Changes, the Quotation will continue to be binding on the parties subject to any Quotation Changes which will prevail over any inconsistent terms in the Quotation.

4. CLIENT OBLIGATIONS

- (a) The Client is solely responsible for and warrants that it will:
 - (i) Seek the Site owner's and all other necessary authorities' and third parties' consent for the Equipment Hire Services to be supplied by Rentertainment at the Site for the Event;
 - (ii) ensure that Rentertainment is provided with all necessary and accurate information about the Site (including the street address, specific location of the Event (building number, level etc), weight loading restrictions, parking, special access arrangements, location of power supply, and any other special instructions), and that such information is accurately recorded in the Quotation or otherwise communicated in writing by the Client;
 - (iii) make all necessary arrangements with the Site owner to facilitate Rentertainment's access to the Site on the Event date, at the agreed times, for the purposes of Rentertainment Representatives unloading, delivering, and setting-up the Hire Equipment in a suitable location with sufficient space and within 10

meters of power supply, and further for the purposes of operating the Hire Equipment during the Hire Period, and packing down and removing the Hire Equipment from the Site at the agreed times, on the Event date;

- (iv) ensure that the Event is operated in compliance with all applicable occupational health and safety laws and for procuring any required permits and licences as are required; and
 - (v) ensure that the Hire Equipment is not damaged in any manner;
 - (vi) ensure that all Client Guests and Client Representatives comply with all directions and instructions of Rentertainment Representatives in relation to the operation and use of the Hire Equipment.
- (b) For the purposes of this clause, the Client will be liable to Rentertainment for:
- (i) the payment of any additional costs incurred by Rentertainment to supply the Equipment Hire Services for the Event as a result of the Client not complying with one or more of its obligations in clause 4(a). Without limitation to the foregoing, the Client will be solely responsible for any parking fines incurred by Rentertainment as a result of any parking restrictions in and around the Site; and
 - (ii) the cost of any repairs required to be made to the Hire Equipment that are due, in Rentertainment's reasonable opinion, to the Client, Client Guests or Client Representatives not complying with the instructions of Rentertainment (or Rentertainment's Representatives) or otherwise misusing or causing damage to the Hire Equipment during the Event.
- (c) Rentertainment accepts no responsibility for any reduction of the length of the Hire Period due to delays in delivery or set-up of the Hire Equipment as a result of the Client not complying with its obligations in this clause 4.

5. LIABILITY

- (a) Where the Client acquires the Equipment Hire Services as a Consumer, Rentertainment will provide said services to the Client in accordance with any Consumer Guarantees under the Australian Consumer Law. Nothing in this Agreement seeks to exclude, limit or restrict the Client's rights under the Australian Consumer Law or any other law. To the extent permitted by law, Rentertainment's liability to the Client for Rentertainment's failure to comply with any Consumer Guarantees, is limited to, at Rentertainment's election:
- (i) supplying the Equipment Hire Services again; or
 - (ii) paying the cost of having the Equipment Hire Services supplied again.
- (b) Subject to clause 5.(a) and to the extent permitted by law, Rentertainment and Rentertainment Representatives will not be liable for and excludes all liability (whether arising under this Client Agreement, in tort, equity, statute or in any other way) for any Loss sustained by the Client, Client Representatives and/or any Client Guest arising from or in

connection with, this Client Agreement, the Event and/or the provision of the Equipment Hire Services.

- (c) Subject to clause 5(a), and to the extent permitted by law, the Client hereby releases Rentertainment and Rentertainment's Representatives from all Claims (whether arising under this Client Agreement, in tort, equity, statute or in any other way) which the Client, the Client Representatives and/or Client Guests may have against Rentertainment and/or Rentertainment Representatives arising from or in connection with, this Client Agreement, and/or the provision of the Equipment Hire Services.
- (d) The Client indemnifies Rentertainment and Rentertainment's Representatives against all Claims and Losses (including any Consequential Loss) suffered by the Rentertainment and Rentertainment's Representatives arising from or in connection with:
 - (i) the Client's, the Client Representatives' and/or Client Guests' use of the Hire Equipment at the Event;
 - (ii) any death of, or injury to, any person and/or any loss to the property of any person, at the Event arising from the provision of the Equipment Hire Services at the Event; and
 - (iii) any breach of this Agreement by the Client.
- (e) The Client's liability under clause 5(d), will be reduced proportionally to the extent that a negligent or unlawful act or omission of Rentertainment or Rentertainment Representatives has contributed to the Loss or Claim.
- (f) The Client hereby agrees to indemnify Rentertainment and Rentertainment's Representatives from any Loss or Claim (including Consequential Loss) suffered by Rentertainment and/or Rentertainment's Representatives in relation to the supply of the Specialised Equipment Hire Services, except to the extent attributable to Rentertainment's negligent or unlawful misconduct.
- (g) In the event that clause 5(b), 5(c), 5(d) and 5(f) are not enforceable for any reason, then the Client agrees that Rentertainment's maximum aggregate liability to the Client in relation to this Agreement, howsoever arising, shall not exceed the Fee.

6. TERMINATION OF HIRE

6.1 Termination 'for convenience' by Client:

- (a) The Client may terminate the Client Agreement but only if it firstly pays Rentertainment the applicable Cancellation Fee.

Where the Client cancels the Event:

- o more than 30 days prior to the Event, the Cancellation Fee will equate to 50% of the Fee;
- o less than 30 days but more than 14 days prior to the Event the Cancellation Fee will equate to 75% of the Fee;
- o less than 14 days notice prior to the Event, the Cancellation Fee will equate to 100% of the Fee

6.2 Postponement of Event:

- (a) If the Client wishes to postpone the Event, it must notify Rentertainment in writing of the proposed re-scheduled

date/s, which date/s must be within sixty (60) days of the original Event Date. If Rentertainment is able to supply the Equipment Hire Services on the proposed re-scheduled date/s, then the original Quotation will stand, and the Client will not forfeit any monies thereunder, subject to payment by the Client of a \$100.00 administration fee for the change in Event Date/s. Notwithstanding the foregoing, Rentertainment will not be liable to the Client in the event that Rentertainment is not able to accommodate any proposed re-scheduled date, and, if this is the case, the Client will be deemed to have terminated the Client Agreement in accordance with clause 6.1.

6.3 Force Majeure:

- (a) If, due to a Force Majeure Event, Rentertainment is unable to provide the Equipment Hire Services for the Event, then Rentertainment may, at its option, either:
 - (i) make any necessary changes to the Equipment Hire Services, provided that the Client agrees to these changes; or
 - (ii) terminate the Client Agreement by notice in writing, and refund any payments made by the Client, without any further liability to the Client.

6.4 Termination for Cause:

The Client Agreement may be terminated as follows:

- (a) by either party, immediately in writing to the other party, if the other party commits a breach of any of its material obligations under this Agreement and the breach is not remedied within 7 days after receipt of written notice of the breach by the notifying party; or
- (b) by either party if the other party is subject to an Insolvency Event. In this event and where applicable, a party's exercise of termination rights under this clause are stayed until such time they are otherwise enforceable under the *Corporations Act 2001 (Cth)*.
- (c) By Rentertainment immediately by notice to the Client or any Client Representative in writing or verbally:
 - (i) If the Client has not paid the Fees in full prior to the Commencement of the Event;
 - (ii) If during the Hire Period, Rentertainment or its Rentertainment Representatives reasonably believe that the Hire Equipment is being damaged (or at risk of being damaged) or is being used in a negligent, reckless or unlawful manner by any person;
 - (iii) If during the Hire Period the Client, Client Representatives or any Client Guest behaves in an inappropriate or disrespectful manner towards Rentertainment Representatives; or

In the event that Rentertainment terminates the Client Agreement under clause 6.4(c), the Fee is still payable in full and no refund will be given as a result of any corresponding reduction in the Hire Period.

7. INSURANCE

- (a) Rentertainment: Rentertainment confirms that it holds the Insurance Policies to cover the Equipment Hire Services.

- (b) Client: The Client must effect and maintain the Insurance Policies to cover the Event and the Client Representatives who are assisting to stage the Event must be covered under such policies. The Client's Insurance Policies must be taken out by a reputable insurer provided to Rentertainment in a form acceptable to Rentertainment, upon request.

8. IP AND FILMING

- (a) Rentertainment owns and/or controls all Rentertainment IP. Nothing in this Agreement purports to transfer any rights, title or interest in the Rentertainment IP to the Client. Where Rentertainment uses any Rentertainment IP as part of the provision of the Equipment Hire Services, Rentertainment grants the Client a limited, non-exclusive, non-transferrable, revocable licence to use the Rentertainment IP for the sole purpose of the Client being able to enjoy its use of the Hire Equipment in accordance with the terms of this Agreement.
- (b) The Client grants Rentertainment a limited, royalty free, worldwide, non-exclusive and transferable licence to use any Intellectual Property owned and/or controlled by the Client and the Client Representatives in order to enable Rentertainment to perform its obligations under this Agreement.
- (c) Rentertainment may take photographs and make audio/visual recordings of the Client and the Client's Representatives during the provision of the Specialised Hire Equipment Services at the Event (**Film Materials**) and use those Film Materials for the purpose of promoting and marketing Rentertainment's business and services generally. The Client warrants that it has obtained all necessary consents and authorities from all relevant Client Representatives to allow Rentertainment to exercise its rights under this clause.

9. DEFINITIONS AND INTERPRETATION

9.1 Definitions

Australian Consumer Law means the *Competition and Consumer Act 2010 (Cth)* Schedule 2.

Cancellation Fee means the fee set out in the Quotation.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature (whether arising under contract, in tort, equity, statute or in any other way).

Consequential Loss means special, incidental, indirect or consequential damages, loss of revenue, anticipated savings, profits, goodwill, reputation, interest or business.

Consumer has the same meaning as under the Australian Consumer Law.

Consumer Guarantees means the consumer guarantees specified in the Australian Consumer Law.

Client Agreement means these Client Agreement together with the terms set out in the attached Quotation.

Client means the Client specified in the Quotation.

Client Guest means any and all persons who attend the Event as a guest of, and at the invitation of, the Client.

Client Representatives means the Client's directors, officers, professional advisors, employees, contractors, servants, agents, volunteers, licensees and other authorised representatives.

Equipment Hire Services means the entertainment equipment to be provided by Rentertainment for hire, at the Event, together with the associated transport, delivery, set-up, operation, pack-down and removal services, to be performed by certain Rentertainment Representatives, as detailed in the Quotation.

Event means the event to be held by the Client, as specified in the Quotation.

Event Date means the date or dates of the Event, as specified in the Quotation.

Fee means the total fee payable by the Client for the Equipment Hire Services, as specified in the Quotation.

Force Majeure Event means anything outside the reasonable control of Rentertainment, including without limitation an act of god, civil riots, war, strike, power outage or the acts of a computer hacker.

GST has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Hire Period means the period during which the Hire Equipment will be made available for use by the Client and Client Guests, as specified in the Quotation.

Hire Equipment means the equipment in the Quotation.

Insolvency Event means, in relation to a party, any one or more of the following events:

- (a) the party is subject to any scheme of arrangement or compromise; or
- (b) an order is made for it to be wound up;
- (c) an administrator, receiver, manager or a liquidator is appointed to the party pursuant to the *Corporations Act 2001 (Cth)*; or
- (d) If the party is insolvent or may be presumed to be insolvent by a court in any of the circumstances referred to in the *Corporations Act 2001 (Cth)*.

Insurance Policies means workers compensation insurance and public liability insurance (with a minimum coverage of \$20 million for one event and in the aggregate).

Intellectual Property means all rights in relation to trade marks, copyright, patentable inventions and designs, whether existing now or in the future, and whether or not registered or registrable, and includes any rights subsisting in or relating to trade secrets, know how, geographical indications of origin, techniques, libraries and databases, Confidential Information, and further includes the right to apply for the registration or grant of any such intellectual property.

Loss means loss, damage, liability, charge, expense, payment or cost of any nature or kind, whether arising under contract, in tort, equity, statute or in any other way as well as all legal and other professional costs (calculated on an indemnity basis).

Quotation means the Rentertainment Work Order Form & Quotation, approved by the Client to which this Agreement is attached.

Rentertainment IP means all Intellectual Property owned by, controlled by and/or licensed to Rentertainment which is provided by or on behalf of Rentertainment to the Client in relation to this Agreement or is otherwise created by Rentertainment in relation to the provision of Equipment Hire Services and this Agreement.

Rentertainment Representatives means Rentertainment's directors, offices, the employees, contractors, volunteers, agents or other representatives.

Site means the venue or other location at which the Event will be held, as specified in the Quotation.

Special Conditions means the special conditions of the Quotation.

Specialised Equipment Hire Services means the specialised entertainment equipment to be provided by Rentertainment's sub-contractors, as set out in the Quotation.

9.2 Interpretation

In this Agreement:

- (a) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (b) words such as including or for example do not limit the meaning of the words preceding them;
- (c) a reference to a document or instrument, including this Agreement, includes all of its clauses, paragraphs, recitals, parts, schedules and annexures;
- (d) a party includes the party's successors and permitted transferees and assigns and if a party is an individual, includes executors and personal legal representatives;
- (e) an obligation or liability assumed by, or a right conferred on, two or more parties binds or benefits them all jointly and severally;
- (f) no provision of this Agreement will be construed to the disadvantage of a party merely because that party was responsible for preparing this Agreement or including the provision in this Agreement;
- (g) all monetary amounts are expressed in Australian dollars (\$AUD); and
- (h) parties must perform their obligations on the dates and times fixed by reference to Melbourne, Victoria, Australia.

10. MISCELLANEOUS

- (a) This Agreement constitutes the entire agreement between the parties and cannot be altered except in writing signed by both parties.
- (b) If any provision of this Agreement is determined for any reason to be unenforceable or invalid, that provision will be read down and if not capable of being read down, then it will be deemed to be severed from this Agreement and will not affect the validity and enforceability of any remaining provisions.

(c) A notice, consent, approval, waiver or other communication provided by a party in connection with this Agreement must be in writing, whereby email is acceptable and a notice by email is deemed given once it is sent by the author.

(d) This Agreement will be governed by and construed in accordance with the laws of Victoria, Australia. The parties submit to the exclusive jurisdiction of the courts of Victoria, Australia.