

Creative Vision and Audio - Terms & Conditions of Hire

Definitions

In these Terms & Conditions unless the context otherwise requires:

- (i) **Equipment** means the items hired out by **Creative Vision & Audio** to the **Hirer**.
- (ii) **Hirer** means any person or company who requests Creative Vision & Audio to hire **Equipment** to it, its employees and agents.
- (iii) **Rental Period** means the period commencing on the date of delivery of **Equipment** or pick up of the **Equipment** by the **Hirer**, until the return of the **Equipment** or pick up of the **Equipment** by **Creative Vision & Audio** or it's agents.
- (iv) **Creative Vision & Audio** is defined as Grudnik & Co. Pty Ltd. and Creative Vision and Audio Pty. Ltd. T/As Creative Vision & Audio and its associated companies and subsidiaries.

Interpretation

In the Interpretation of these Terms & Conditions unless the context otherwise requires:

- (i) Words denoting a person shall include corporations, statutory corporations, partnerships, joint ventures, associations, boards, governments or semi-government agencies or authorities.
- (ii) Words denoting the singular number shall include the plural number and vice versa.
- (iii) Words denoting any gender shall include all other genders.
- (iv) A reference to a statute or a regulation also refers to any statute or regulation amending, or consolidation or re-enacting same.

Scope

- (i) **Creative Vision & Audio** shall provide **Equipment** for the duration of the **Rental Period**.
- (ii) Provided that the **Hirer** has not breached any provision of these **Terms & Conditions**, **Rental Period** may be extended at the request of the **Hirer** at the sole discretion of **Creative Vision & Audio**.
- (iii) In the event that the **Equipment** is not returned by the expiration of the **Rental Period** then at the sole option of **Creative Vision & Audio** a further fee shall become due and payable and such shall continue to accrue on the expiration of the renewed **Rental Period** until the **Equipment** is returned. The **Hirer** acknowledges that all delivery and collection times are approximate and late delivery or collection shall not entitle the **Hirer** to terminate this agreement or claim any other form of release against **Creative Vision & Audio**.

Hirer's Obligations

The **Hirer** shall:

- (i) Pay **Creative Vision & Audio** all fees and charges payable including without limitation, Hire Fees, Service Fees, Delivery Costs, Collection Costs and Consumables.
- (ii) Make all appropriate inquiries about the **Equipment's** fitness for the purposes for which it is hired or used by the **Hirer** and shall determine whether the **Equipment** is fit for that purpose and is in a condition suitable for use.
- (iii) Use the **Equipment** only for the purpose for which it is manufactured or designed and in accordance with the manufacturer's instructions.
- (iv) Keep the **Equipment** insured and be responsible for any loss or damage to the **Equipment**, either by fire, theft, vandalism, weather conditions, flood, water or any eventuality whatsoever and shall indemnify **Creative Vision & Audio** and hold **Creative Vision & Audio** harmless for any loss or damage in fact suffered other than through fair wear and tear in the normal course of use.
- (v) Clean the **Equipment** and return it to **Creative Vision & Audio** in a clean condition, properly maintained in accordance with the manufacturer's recommendations.
- (vi) Not sell, charge, pledge or part with possession of **Equipment**;
- (vii) Keep the **Equipment** at the address specified unless written permission has been obtained from **Creative Vision & Audio** to relocate **Equipment** elsewhere;
- (viii) Keep the **Equipment** in a careful and proper manner and not interfere or tamper with or let anyone else do so;
- (ix) Return the **Equipment** in the same packaging as delivery was made in. **Creative Vision & Audio** reserves the right to charge for packaging materials that are not returned.
- (x) Permit **Creative Vision & Audio** its agents or servants to enter the premises where the **Equipment** is located at all reasonable times in order to inspect the **Equipment** or carry out repairs to the **Equipment**.

Risk

- (i) Risk for the **Equipment** passes to the **Hirer** when the **Equipment** leaves the premises of **Creative Vision & Audio**, or is delivered to the requested address, and ceases when the **Equipment** is delivered into the safe possession of **Creative Vision & Audio**.
- (ii) The **Hirer** is responsible for the safekeeping of the **Equipment** and shall bear the risk of any loss, theft, damage or destruction of **Equipment**.
- (iii) In the event that the **Equipment** requires repair as result of **Hirer's** negligence, misuse or abuse, the **Hirer** shall bear cost of any such repair including any freight charges.
- (iv) The **Hirer** shall pay **Creative Vision & Audio** the new replacement cost as assessed by **Creative Vision & Audio** of the **Equipment**, which is lost, stolen, destroyed or damaged beyond repair.
- (v) Any item of non-expendable material (including operations manuals) not returned to **Creative Vision & Audio** upon cessation of the **Rental Period** shall be charged to the account of the **Hirer** at full replacement cost or \$50 which ever shall be the greater amount.

Maintenance

- (i) **Creative Vision & Audio** shall at its expense provide routine maintenance and recalibration for the **Equipment** and shall use its best endeavours to expeditiously repair or replace the **Equipment**, which becomes defective during the **Rental Period** through no fault of the **Hirer**.
- (ii) In the event that the **Equipment** does not operate properly the **Hirer** shall immediately notify **Creative Vision & Audio** and request instruction before taking remedial action.
- (iii) **Creative Vision & Audio** may at its option and for such length of time as it deems expedient replace **Equipment** with another of such type or model as shall for the time being be available and **Equipment** so substituted shall be subject to these **Terms & Conditions**.

- (iv) **Creative Vision & Audio** shall not be liable if the defect is a result of:
 - a. Improper use;
 - b. operation of the **Equipment** other than in accordance with the operating manual;
 - c. modification of the **Equipment**;
 - d. use of the **Equipment** in an environment other than for which it was designed
 - e. use of the **Equipment** by a person other than the **Hirer**;
 - f. the **Hirer's** failure to allow maintenance of the **Equipment**;
 - g. the serial number or labels being removed or replaced.

Limited Warranty and Exclusion of Liability

- (i) **Creative Vision & Audio** warrants that each item of the **Equipment** hired is of merchantable quality and reasonably fit for the purpose for which it was designed. All other warranties whether express, implied, statutory or otherwise, relating in any way to the subject matter of these **Terms & Conditions** are excluded.
- (ii) **Creative Vision & Audio** shall not be under any liability to the **Hirer** in respect of any loss or damage (including, without limitation, consequential loss or damage) however caused which may be suffered or incurred or which may arise directly or indirectly in respect to the supply of goods or services pursuant to these **Terms & Conditions** or the
- (iii) failure or omission on the part of **Creative Vision & Audio** to comply with its obligations under these **Terms & Conditions** including, without limitation, negligence.

Title

- (i) **Creative Vision & Audio** retains all rights, including without limitation any intellectual property rights, and title in the **Equipment**.
- (ii) The **Hirer** acknowledges that the on-line Microsoft End User Licence Agreement governs its use of the Microsoft Software accompanying the **Equipment** rented.
- (iii) The use of any Software supplied by **Creative Vision & Audio** is subject to the **Terms & Conditions** of the relevant End User Licence Agreement, which is incorporated into these **Terms & Conditions**.

Force Majeure

- (i) **Creative Vision & Audio** shall not be liable for any delay or failure to perform its obligations if such a failure or delay is due to Force Majeure - an act, omission or circumstance over which **Creative Vision & Audio** could not have reasonably exercised control.

Waiver

- (i) No right of **Creative Vision & Audio** shall be deemed to be waived except by notice in writing from **Creative Vision & Audio**.
- (ii) Any failure by **Creative Vision & Audio** to enforce any clause of these **Terms & Conditions**, or any forbearance, delay or indulgence granted by the **Hirer** will not be construed as a waiver of **Creative Vision & Audio's** rights.

Notices

- (i) Notices under these **Terms & Conditions** may be delivered by hand, by mail, online download or e-mail to the address set out in the quotation form and delivery docket and will be deemed agreed and accepted upon confirmation of the quotation provided.

Fees

- (i) The **Hirer** shall pay **Creative Vision & Audio** the Hire Fees on delivery, in advance or within 7 days of invoice (unless specified otherwise on this contract of hire) without withholding, deduction or offset of any amounts for any purpose.
- (ii) The **Hirer** shall pay **Creative Vision & Audio** interest at the rate of 10% on all overdue amounts from the due date until payment is made.
- (iii) If any payment owing to **Creative Vision & Audio** is not made within seven (7) days of the due date, **Creative Vision & Audio** may, without further notice to the **Hirer**, suspend further services or its remaining obligation to the **Hirer** under these **Terms & Conditions**.

Termination

- (i) Without limiting the generality of any other clause in these **Terms & Conditions**, **Creative Vision & Audio** may terminate these **Terms & Conditions** immediately by notice in writing if:
 - a. any payment due from the **Hirer** to **Creative Vision & Audio** pursuant to these **Terms & Conditions** remains unpaid for a period of seven (7) days;
 - b. The **Hirer** is otherwise no longer capable on complying with its obligations under these **Terms & Conditions**; or
 - c. The **Hirer** becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration
- (ii) If these **Terms & Conditions** are terminated then **Creative Vision & Audio** may in its sole discretion;
 - a. retain all moneys paid, which is agreed to be a genuine estimate of part of **Creative Vision & Audio's** loss and damage suffered;
 - b. charge a reasonable sum for the **Equipment** supplied in respect of which no sum has been previously charged;
 - c. be regarded as discharged from any further obligations under these **Terms & Conditions**; and
 - d. enter upon the premises of the **Hirer**, the consent to which is hereby granted by the **Hirer**, and repossess the **Equipment**. All such reasonable costs of repossession are the responsibility of the **Hirer** and shall be added to Hire Fees.
 - e. Pursue any additional or alternative remedies provided by law.
- (iii) The covenants, conditions and provisions of these **Terms & Conditions** which are capable of having effect after the expiration of these **Terms & Conditions** shall remain in full force and effect following the expiration of the **Terms & Conditions**.

Cancellations

- (i) The **Hirer** shall be liable for a cancellation fee for the full amount if the **Hirer** cancels the hire and/or service less than 24hrs to time of delivery or 50% of the full amount if cancelled within 48hr.-24hr. period

Entire Agreement

- (ii) No modification, variation or alteration of any provision of these **Terms & Conditions** shall be valid except in writing signed by each Party.

Governing Law

- (i) These **Terms & Conditions** will be governed by and construed according to the law of the State of Victoria.
- (ii) The parties irrevocably submit to the exclusive jurisdiction of the Courts of Victoria and Australia and any courts hearing appeals from such Courts.