

## TERMS OF TRADE & CONDITIONS OF HIRE

These Terms and Conditions unless expressly altered or modified in writing by Image Group NZ Limited (referred to in these Terms and Conditions as 'IGNZ'), apply and shall be deemed incorporated in and form part of all contracts of hire, sale and/or technical services between you and IGNZ.

In these Terms and Conditions, whether you are hiring or purchasing goods, or engaging IGNZ to provide you with production management services, you are referred to as 'Customer'.

In these terms and conditions, whether you are hiring equipment or engaging IGNZ to provide production services, the job, project, concert, show or other name is referred to as an 'event'.

### Hire Terms

#### 1. Terms of Hire

- 1.1 The terms of the agreement between the Customer and IGNZ in relation to the hire of equipment will be as per the hire agreement form setting out particulars of the hire (Quotation Summary) and the terms and conditions set out below (together, Quotation Summary).

#### 2. Period

- 2.1 The hire period commences when the equipment leaves IGNZ's warehouse, and is for the period stated in the Quotation Summary.
- 2.2 The hire period ends on the working day on which the equipment is returned to IGNZ before 10 am. Any equipment returned after 10 am shall be deemed to be returned before 10 am on the next working day.
- 2.3 No allowance for credit for any reason will be made for time when equipment is not in use.
- 2.4 A "working day" shall mean any Monday, Tuesday, Wednesday, Thursday, Friday, Saturday or Sunday.
- 2.5 A "week" shall mean any continuous seven day period.

#### 3. Equipment

- 3.1 The equipment hired is agreed to be as stated in the Quotation Summary.
- 3.2 Any equipment stated in quotations, proposals, Quotation Summary or such like is subject to availability until the Quotation Summary has been signed and the job confirms.
- 3.3 IGNZ does not represent or warrant that the equipment supplied or its capacity or performance is fit for any particular use or purpose not known to and approved by IGNZ prior to the Hire Agreement being entered into.
- 3.4 While every endeavor is made to supply equipment as ordered, IGNZ reserves the right if necessary to substitute other equipment of similar functionality.
- 3.5 IGNZ will not be responsible for any delays, accidents or loss (including loss of profits), costs, expenses or damage of any kind whether direct, indirect or consequential, which may arise through defects or breakdowns of the equipment hired, the hire or use of the equipment or any technical assistance provided by IGNZ.
- 3.6 Where the hire of equipment under the Hire Agreement is for business purposes pursuant to sections 2 and 43 of the Consumer Guarantee Act 1993, the provisions of the Consumer Guarantees Act 1993 will not apply. Where the Consumer Guarantees Act 1993 does apply, nothing in the Hire Agreement shall limit or abrogate the provisions of that Act.
- 3.7 The Customer warrants that he/she is competent and qualified to use the equipment in the way or which it was designed.



**4. Non-Supply**

- 4.1 IGNZ will endeavor to supply equipment as ordered but is under no liability for non-delivery, delay in delivery or inability to supply when required.

**5. Loss or Damage**

- 5.1 The Customer accepts full responsibility for all loss or damage howsoever caused from the time the equipment is taken from IGNZ's warehouse, depot or vehicle by the Customer or other carrier, until returned to IGNZ.
- 5.2 The Customer acknowledges that IGNZ has no insurance on the equipment while on hire and that it is the Customer's responsibility to arrange insurance to cover the equipment on hire for the hire period with the interests of IGNZ to be noted as a loss payee.
- 5.3 Within 24 hours of a written request by IGNZ, the Customer must deliver to IGNZ evidence satisfactory to IGNZ that the Customer has appropriate insurance cover in place.
- 5.4 The Customer shall pay to IGNZ full compensation for the replacement or repair of any equipment damaged or destroyed while on hire or not returned at the end of the hire period or on termination of the Hire Agreement.

**6. Damage waiver on hire**

- 6.1 If the Customer elects a damage waiver, which is available for certain items of equipment specified by IGNZ, and pays the damage waiver fee specified in the Quotation Summary, IGNZ will waive the Customer's liability under clause 5 for
  - 6.1.1 Accidental damage provided that the Customer has at all times acted reasonably and without negligence in IGNZ's opinion
  - 6.1.2 Theft of any equipment from secure locked premises provided that the Customer must immediately notify the police and IGNZ (providing full details of the theft and the police contact to IGNZ).
- 6.2 The Customer acknowledges that the disappearance, loss or damage to the equipment resulting from the negligence of the Customer, earthquake and war damage and breakages to glass are not covered by the damage waiver.
- 6.3 If the Customer's use of the equipment or the location in which it is used is of an unusual type, the Customer must notify IGNZ before it takes possession of the equipment. IGNZ will then notify the Customer of any special conditions or exclusions that apply.
- 6.4 In any case of damage which falls within clause 6.1 and is not excluded by clause 6.2, the Customer must pay the excess charge of 33.3% of full replacement cost, with a minimum of \$100.00 plus GST applying, up to a maximum of \$1,000.00 plus GST for any one item of equipment.

**7. Customer Responsibilities**

- 7.1 The Customer shall only use the equipment for the purpose and within the limits for which it has been designed, and will not alter, repair or modify the equipment. The equipment shall only be used in the locations specified, and shall not be removed without IGNZ's written consent from the location unless for the purposes of return.
- 7.2 In the case a building permit, building consent or land owners approval is required, it is the Customers responsibility to ensure these approvals are gained and pay any charges related to gaining them.

**8. Consumables**

- 8.1 The Customer shall only use the consumables supplied or approved by IGNZ. Should consumables other than those supplied or approved by IGNZ be used, the Customer shall be liable for the cost of any repairs or replacement of the equipment as may be necessary.
- 8.2 Where spare lamps are provided with the equipment, the Customer shall return these at the completion of the hire. Should a lamp have to be replaced, the blown lamp is also to be returned to IGNZ prior to or at the completion of the hire. Should this requirement not be complied with, the Customer shall pay to IGNZ the cost of all the lamps not returned.



**9. Faulty or damaged equipment**

- 9.1 If the Customer considers any equipment to be faulty as supplied, the Customer shall immediately notify IGNZ.
- 9.2 IGNZ will arrange where possible to service the equipment and remedy any fault that arises during the hire period. Where faults have arisen because of abuse or misuse, the Customer shall pay IGNZ the cost of repairing the fault.
- 9.3 The Customer will advise IGNZ in detail of any loss or damage to or breakage of any of the equipment within 24 hours of the loss, damage or breakage occurring. The Customer shall not use the equipment if such use would in any way aggravate the defect or otherwise prejudicially affect the equipment.
- 9.4 IGNZ may require the Customer to: (a) have the repair or maintenance carried out by a third party specified by IGNZ, or (b) arrange for the repair or maintenance to take place at a location specified by IGNZ.
- 9.5 If any equipment is damaged or IGNZ asks the Customer to do so, the Customer will immediately return the equipment to IGNZ.

**10. Return of equipment**

- 10.1 The Customer shall return the equipment on the due back date shown on the Quotation Summary. The Customer shall pay IGNZ for any overdue days at the rate equivalent to the first day multiplied by the number of overdue days.
- 10.2 Should any equipment be returned in a dirty condition, the Customer will pay IGNZ the cost of cleaning of the equipment.
- 10.3 If the Customer does not return any item of equipment or any part of an item of equipment, the Customer will pay all costs of replacing the equipment or part of the item of equipment.

**11. Delivery**

- 11.1 Hire charges are ex. IGNZ's warehouse or depot. The Customer shall pay IGNZ any freight or delivery charges incurred by IGNZ on the Customer's behalf.

**12. Packing & Containers**

- 12.1 IGNZ shall suitably pack all equipment. The Customer shall return all equipment appropriately packed using the packaging and containers supplied and will comply with any instructions provided by IGNZ. The Customer shall pay the cost of replacing any packaging and/or containers not returned at the completion of the hire or that is damaged.

**13. Payment**

- 13.1 The Customer agrees to pay according to the payment terms for the hire period as set out on the Quotation Summary supplied.
- 13.2 Unless otherwise agreed, the Customer shall pay all hire charges before the hire commences. Failure to do so will result in IGNZ terminating the contract effective immediately.
- 13.3 Unless otherwise stated, all prices in the Quotation Summary exclude GST.

**14. Termination**

- 14.1 If the Customer defaults in making any payment for a period exceeding seven working days from the date when payment is due, or breaches any term or condition of the Hire Agreement, IGNZ shall have the right to terminate the hire immediately, and to take steps to recover possession of the equipment but without prejudice to IGNZ's rights to recover all amounts due for the full period of the hire and compensation for any damage or destruction to the equipment and the costs of exercising its powers under this clause.



- 14.2 IGNZ is entitled to terminate the Hire Agreement by notice in writing without prejudice to any rights, actions or remedies which have accrued or may accrue in favour of IGNZ if the Customer becomes insolvent or goes into liquidation, or does anything that could prejudice the rights of IGNZ, or fails to comply with its obligations under the Hire Agreement and does not remedy that failure within ten working days' notice from IGNZ requiring the failure to be remedied.
- 14.3 On termination of the hire, the Customer shall deliver up the equipment to IGNZ complete with all accessories, clean and in the same good order as supplied.
- 14.4 Notwithstanding termination of the hiring, the Customer shall be obligated to pay IGNZ a sum equivalent to hire fees at the rate specified herein in respect of any period from the date of termination of the hiring until the equipment is actually returned to IGNZ.

**15. Property Rights**

- 15.1 All equipment remains the property of IGNZ.
- 15.2 The Customer undertakes to keep the equipment in the Customer's control and possession, and free from all encumbrances charges, liens and any other interests whatsoever.
- 15.3 The Customer shall allow IGNZ and its agent's free and uninterrupted access to any premises where the equipment is installed/stored for the purposes of inspecting the said equipment.
- 15.4 All intellectual property in the equipment remains the sole property of IGNZ. The Customer cannot use or pass on to any third party any intellectual property in the equipment whatsoever without IGNZ's prior written consent, which may be withheld in IGNZ's sole discretion.
- 15.5 All intellectual property in quotations, proposals or project specifications and designs equipment remains the sole property of IGNZ. The Customer cannot use or pass on to any third party any intellectual property in the equipment whatsoever without IGNZ's prior written consent, which may be withheld in IGNZ's sole discretion.

**16. Owner's Liabilities**

- 16.1 IGNZ and the Customer agree that IGNZ will not be liable for any loss, damage or claim however arising as a result of the hire or use of the equipment.
- 16.2 The Customer hereby indemnifies IGNZ, its officers, employees, agents and sub-contractors against all claims whatsoever arising directly or indirectly from the hire, the Customer's possession or use of the equipment.
- 16.3 The Customer shall not have any claim against IGNZ for loss or damage suffered by the Customer as a result of the Customers use of equipment.
- 16.4 The Customer will indemnify IGNZ against any claim by a third person in respect of any loss, injury or liability arising from this hiring out of equipment hired by the Customer.

**17. Security Interest**

- 17.1 The Customer acknowledges that if the equipment is hired for a period of more than one year, the Hire Agreement in respect of the equipment constitutes a security agreement for the purposes of the Personal Property Securities Act 1999 and the Customer grants a security interest to IGNZ in the particular equipment hired.
- 17.2 The Customer undertakes to sign any documents and/or provide any information which IGNZ may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register.
- 17.3 The Customer waives the Customer's rights to receive a copy of any verification statement in respect of any financing statement registered by IGNZ on the Personal Property Securities Register in respect of any equipment supplied by IGNZ to the Customer.

**18. Indulgence**

- 18.1 No indulgence waiver or further time granted to the Customer by IGNZ shall in any way prejudice IGNZ's rights under the Hire Agreement.



**19. Assignment**

19.1 The Hire Agreement, Sale Agreement and/Technical Services Agreement cannot be assigned without the prior written consent of IGNZ.

**20. Entire Agreement**

20.1 Each of the Hire Agreement, Sales Agreement and Technical Agreement (Agreements) contain everything the parties have agreed in relation to the subject matter it deals with. No party can rely on an earlier written document or anything said or done by or on behalf of another party before the applicable Agreement was executed.

**21. Force Majeure**

21.1 In these terms a reference to force majeure means any of the following: an event caused by war, government action, strike, lockout, other industrial disturbance or labor difficulty, variation in customs duties, act of God, act of public enemy, blockade, revolution, riot, insurrection, civil commotion, lightning, storm, flood, fire, earthquake, explosion, embargo, substitution of goods, shortage of supplies, increased shipping or other freight charges, premium on overseas funds, unavailability of or disruption to communication networks, infrastructure or services, unavoidable accident, lack of transportation, or anything done or not done by or to a person, government or other competent authority, except the party relying on force majeure.

**22. Governing law & jurisdiction**

22.1 The Agreements are governed by the law of New Zealand. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

**23. Severability**

23.1 Each provision of the Agreements is individually severable. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction it is to be treated as being severed from these terms the relevant jurisdiction, but the rest of these terms will not be affected. The legality, validity and enforceability of the provision in any other jurisdiction will not be affected.

**24. Variation**

24.1 No variation of these terms or any of the Agreements will be of any force or effect unless it is in writing and signed by each party to the Agreement.

**25. Waivers**

25.1 A waiver of any right, power or remedy under the Agreements must be in writing signed by the party granting it. A waiver only affects the particular obligation or breach for which it is given. It is not an implied waiver of any other obligation or breach or an implied waiver of that obligation or breach on any other occasion.

25.2 The fact that a party fails to do, or delays in doing, something the party is entitled to do under the applicable Agreement does not amount to a waiver.

**26. Damage waiver on hire**

26.1 A hirer has the right to cancel in writing any services at any time with the knowledge that the following conditions apply:

26.1.1 Any deposit paid is non-refundable unless prior written agreement has been made by IGNZ.

26.1.2 Cancellation less than 24 hours' notice prior to delivery/collection will incur a 25% charge in addition to any deposit made of the total agreed hire charges.

26.1.3 Once delivery/collection has begun the Customer accepts and agrees to pay the full hire charges agreed to.

26.2 IGNZ has the right to cease a hire of services on the grounds of Health and Safety at any time.



**27. Alteration of hire**

- 27.1 The Customer can in writing request any change to a Quotation Summary prior to an event.
- 27.2 The customer accepts any additional charges incurred due to a change made to a Quotation Summary, including a change in location, date and/or time.

**28. Re-Instating of facilities**

- 28.1 IGNZ takes all due care to protect, maintain and avoid damage to property not owned by IGNZ. It is the Customers responsibility and obligation to reinstate any items damaged by IGNZ during the event at no charge to IGNZ.

**29. Signatory**

- 29.1 The person signing the Terms of Trade or Quotation Summary for or on behalf of the Customer (if not personally the Hirer) warrants that they have the authority of the Hirer to make this contract on the Hirer's behalf and that he/she is empowered by the Customer to bind the Customer to this agreement. The person so signing hereby indemnifies IGNZ against all losses and costs that may be incurred by IGNZ arising out of the person so signing the agreement failing to have such power authority.
- 29.2 In the case of a person entering into this agreement in a private capacity as Customer, the Customer by entering into this contract hereby authorizes the disclosure of personal information regarding this creditworthiness by any other party to IGNZ and that this personal information may be used by IGNZ to advise the Customer of IGNZ's other goods and services. The hirer has rights to access to the correct personal information.

