

Terms and Conditions of Hire

Interpretation

1. In these terms & conditions:
 - (1) "Site Safe" means Site Safe (Vic) Pty Ltd ACN 004 874 015 and Site Safe (Qld) Pty Ltd ACN 150 602 645.;
 - (2) "Hirer" means the hirer of the Goods and/or Services as identified in the Hire Agreement;
 - (3) "Goods" means the products supplied by Site Safe to the Hirer;
 - (4) "Hire Agreement" means the agreement between Site Safe and the Hirer for the hire of Goods which includes:
 - (a) any Credit Application;
 - (b) these terms and conditions of Hire, and
 - (c) any Hire Agreement provided to the Hirer by Site Safe, whether signed or not.
 - (5) "Services" means the services supplied by Site Safe to the Hirer;

Terms of Hire

2. Each supply of Goods or Services by Site Safe to the Hirer is made under these terms & conditions.

Hire Period

3. The period of hire shall commence on the Commencing date shown in the Hire Agreement (subject to the provisions of Clause 9 hereof) and shall continue until the equipment is returned to Site Safe's depot but in any event shall not be for a period less than two weeks and not longer than twelve months.

Prices & Quotations

4. Subject to clause 5, the Rental for hire of the Goods and Services shall be the price stated in Site Safe's quotation to the Hirer.
5. Unless previously withdrawn, Site Safe's quotations are open for acceptance within the period stated in them or, when no period is stated, within 14 days only after the date of the quotation.

Payment

6. Invoices issued by Site Safe to the Hirer must be paid in full within 14 days of the date of the invoice.
7. If the Hirer fails to pay any amount it owes to Site Safe by the due date then, in addition to any other rights Site Safe may have, it may charge daily interest on the outstanding amount at the rate 2% higher than the rate from time to time fixed by the Penalty Interest Rates Act 1983 (Vic).
8. The Rental shall be payable by the Hirer to Site Safe during the Hire Term at the time and in the manner specified in the definition of the Rental and in addition the Hirer agrees to pay an amount for each day during which the Goods are retained by the Hirer after the expiry of the Hire Term (or sooner determination) equal to one seventh of the weekly rental.

Default and Termination

- 9.1 The Hirer shall be in default if:
 - (i) any Rental or any other money payable under this agreement is not made by the due date;
 - (ii) the Hirer, is declared bankrupt or commits an act of bankruptcy, enters into an arrangement or composition with creditors, signs an authority under Part IX or X of the Bankruptcy Act or suffers the appointment of a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator or has winding up proceedings initiated against it or any execution is levied against his or its property; or
 - (iii) the Hirer breaches any of its other obligations under this Agreement and fails to remedy that breach within 7 days of being given a notice by Site Safe requiring the breach to be remedied;
 - (iv) Site Safe ascertains that any warranty, representation or statement made by the Hirer under or in connection with this Agreement has been false or misleading in any material respect;
 - (v) there is a material adverse change in the business or financial condition of the Hirer which could adversely affect the ability of the Hirer to meet its obligations under this Agreement.
- 9.2 In the event of default, Site Safe will be entitled (without the obligation to give any notice to the Hirer and in addition to any other rights it may have) to:
 - (a) charge daily interest pursuant to clause 7
 - (b) an accounting fee plus recovery agents fees and actual legal costs incurred by Site Safe in recovering due amounts;
 - (c) terminate or suspend supply of any order which is the subject of any other hire agreement between Site Safe and the Hirer;
 - (d) treat the Hirer's default as a repudiation of any existing contract for the hire of Goods or Services;
 - (e) recover any unpaid sum plus the compensation referred to in paragraph (a) of this clause plus the fee referred to in paragraph (b) of this clause from the Hirer by way of liquidated damages; and
 - (f) retake possession of the Goods pursuant to these terms and conditions and for this purpose may enter any Premises where Site Safe believes the Goods are situated pursuant to clause 16 hereof and cease providing the Services immediately.

Prices Exclude GST

10. Prices quoted are exclusive of GST. Site Safe will issue a tax invoice and the Hirer must reimburse Site Safe for any GST payable by it on each taxable supply it makes to the Hirer at the same time as the amount the subject of the invoice is payable.

Delivery

11. Site Safe shall arrange delivery of the Goods to the location agreed by Site Safe and the Hirer at the Hirer's cost unless the Hirer has arranged to collect Goods from Site Safe.

12. Delivery times for the Goods and completion times for the Services made known to the Hirer are estimates only and Site Safe is not liable for any loss, damage or delay occasioned to the Hirer or anyone else arising from late delivery or non-delivery of the Goods or late completion of the Services. The Hirer may not refuse to accept delivery of the Goods and shall not be relieved of any obligation to accept or pay for the Goods or Services by reason of any delay in delivery or partial delivery by Site Safe. At a minimum, the Hirer remains liable for delivery and collection costs of the Goods if the Hirer does not proceed for the entire Hire Term.

Title & Risk

13. The Hirer acknowledges that in all circumstances Site Safe retains title to the Goods (even if the Hirer goes into liquidation or becomes bankrupt in the Hire Period) and in no circumstances will the Goods be deemed to be a fixture.
14. The Hirer will not be entitled to offer, sell, assign, sub-let, mortgage, pledge or otherwise deal with the Goods in any way which is inconsistent with the rights of Site Safe as owner of the Goods unless otherwise agreed to by Site Safe in writing.
15. At the commencement of the Hire Term the Hirer shall assume all the risks and liabilities for and in respect of the Goods and for injuries to or death of persons and damage to property (including the Goods) howsoever arising from the possession, use, maintenance, repair or storage of the Goods.
16. If the Hirer does not pay for the Rental in relation to the Goods by the due date for payment Site Safe and its agents are irrevocably authorised by the Hirer to enter the Hirer's premises (or any premises under the control of the Hirer or as agent of the Hirer if the Goods are stored at such premises) and use reasonable force to take possession of the Goods without liability for the tort of trespass, negligence or payment of any compensation to the Hirer or anyone claiming through the Hirer whatsoever for any damage or loss including loss or damage to any goods or possessions of the Hirer's contained or stored in the Goods. Furthermore the Hirer agrees that Site Safe may exercise a lien over any such stored possessions until payment in full is made by the Hirer of any monies outstanding to Site Safe.

Hirer's Responsibility

17. The Hirer agrees that before accepting the Goods it has satisfied itself as to the suitability, condition and fitness for purpose of the Goods. Subject to clause 25, Site Safe gives no warranty that the Goods are suitable for the Hirer's purpose. To the extent permitted by law, Site Safe shall not be liable in any way for any loss or damage (including direct, indirect, or consequential) arising from the failure of the Hirer to so satisfy itself.
18. The Hirer must ensure that during the Hire Period the Goods are stored safely and securely and are protected from theft, seizure or damage.
19. The Hirer must not alter, deface, remove or erase any notices, safety information, identifying mark, plate or number on the Goods.
20. The Hirer consents to Site Safe inspecting the Goods from time to time during the Hire period.
21. The Hirer agrees to return the Goods to Site Safe at the expiry of the Hire Term or upon sooner determination of the Hire Period pursuant to clause 9 hereof in the same order and condition in which they were delivered fair wear and tear only excepted.
22. The Hirer undertakes that the Goods will be and remain at all times under the Hirer's control and that the goods will be installed or housed at the address specified in the Hire Agreement as the Hirer's address, and the Hirer undertakes that the Goods will not be removed from that address without prior approval in writing from Site Safe

Charging interest in real estate and personal property

23. In consideration of Site Safe approving the Hirer's application for credit and to secure the repayment of any monies owed at any time by the Hirer to Site Safe, the Hirer charges the interest the Hirer has now or in the future either solely or jointly or as tenant in common in any real estate and in all present and after acquired personal property. The Hirer acknowledges Site Safe's right pursuant to the security hereby given to lodge a caveat on any real estate in which the Hirer has such an interest. The Hirer further acknowledges that the security interest herein granted to Site Safe in respect of personal property is capable of registration pursuant to the *Personal Property Securities Act 2009* ("PPSA") and that the security interest will continue until Site Safe gives a final release in relation to the secured goods. The Hirer acknowledges that Site Safe will take all necessary steps to register its security interest under the PPSA, and hereby consents to Site Safe doing so. The Hirer further undertakes to promptly provide any information and do all things as required by Site Safe to enable Site Safe to perfect its security interest in the goods and agrees to pay Site Safe's legal costs (calculated on an indemnity basis) of and incidental to the security hereby given and its subsequent discharge.

Limitation of Liability

24. To the extent permitted by law, Site Safe excludes all statutory or implied conditions and warranties and any other liability it may have to the Hirer (including liability for indirect or consequential loss) that may arise under statute or at law including without limitation for breach of contract, in tort (including negligence) or under any other cause of action.
25. To the extent permitted by law, Site Safe limits its liability under any condition or warranty which cannot be legally excluded in relation to the supply of Goods and Services to (at its election) the repair or replacement of the Goods or the supply of substitute Goods (or the cost of doing so) and in no event will any liability for damages be greater than the cost of the services being supplied under the Hire Agreement.

Lost stolen or damaged Goods

26. The Hirer is responsible for the Goods whilst on hire. If the Goods are lost, stolen or damaged during the Hire Period the Hirer will be liable for:
 - (a) any costs incurred by Site Safe in repairing or the new replacement cost of the Goods, and
 - (b) any other costs whatsoever incurred by Site Safe as a result of the loss, theft or damage to the Goods, including the continuation of hire charges when the damages were caused by the negligence or act or omission of the Hirer;

except where the Hirer pays the Damage Waiver fee, in which case its liability is subject to the damage waiver Fee Clause below.

Damage waiver

- 27.1 Where Damage Waiver charges have been charged to the Hirer, Site Safe agrees, upon prompt submission of a written Police Report from the Hirer, to waive its rights to claim for loss or damage to the Goods caused by fire, storm, collision, accident, theft or burglary providing adequate precautions have been taken to safeguard the Goods. Such waiving of rights is subject to payment by the Hirer of an excess for either the loss of the Goods or damage to the Goods, being the greater of \$500.00 per item or 15% of the cost of repairs or the new replacement cost of the Goods (as the case may be).
- 27.2 Expressly excluded from the above LOSS AND DAMAGE COVER are loss or damage as defined below:
- a. Damage due to misuse or abuse of the Goods.
 - b. Mysterious disappearance of the Unit.
 - c. Loss or damage in contravention of the conditions of this Hire Agreement.
 - d. Loss or damage from use in violation of any statutory laws and regulations.
 - e. Damage caused by exposure to any corrosive substance.
 - f. Theft of the Unit unless reasonably locked and secured.
 - g. Loss or damage during transport, except where transported by Site Safe.
 - h. Loss or damage to Goods which the Hirer has elected not to pay Damage waiver premium and thereby the Hirer has accepted liability for the Goods and
 - i. Any loss or damage caused by negligence of the hirer.

Indemnity

28. The Hirer indemnifies Site Safe against the loss of or damage to the Goods howsoever arising and indemnifies Site Safe with respect to all losses, damages, claims, penalties, liabilities and expenses (including legal costs) howsoever arising incurred as a result of or in connection with the use of the Goods by the Hirer.

Termination

- 29 Site Safe may terminate the Hire Agreement immediately by notice to the Hirer on the happening of a default event set out in clause 9 above.
30. Site Safe may terminate the hire Agreement for any other reason by 72 hours notice.

Miscellaneous

31. A statement in writing signed on behalf of Site Safe stating the amount or any amount due from the Hirer under this Agreement shall be conclusive evidence that the amount stated therein is owing by the Hirer to Site Safe except to the extent of any demonstrable error.
32. If the Hirer comprises two or more parties, they shall be bound by this Agreement jointly and individually and every reference to the Hirer shall be taken to apply to all such parties and each of them.
33. Any dispute arising under these terms and conditions shall be governed by and construed in accordance with the laws of the State of Victoria and Site Safe and the Hirer agree to submit to the jurisdiction of the courts and tribunals of that State.
34. Any provision of these terms & conditions which is void, illegal or unenforceable must be read down (if possible) to be valid, legal and enforceable and such provision shall not affect the validity, legality or enforceability of the remaining provisions.
35. Site Safe reserves the right to vary these terms & conditions by notice to the Hirer in writing.