

Terms & Conditions of Hire

<p>1. Definitions</p> <p>1.1 "Owner" shall mean Matthew Alan Regan & Alison Debra Regan T/A Talkin Audio Productions and its successors and assigns.</p> <p>1.2 "Hirer" shall mean the Hirer or any person acting on behalf of and with the authority of the Hirer.</p> <p>1.3 "Guarantor" means that person (or persons), or entity who agrees herein to be liable for the debts of the Hirer on a principal debtor basis.</p> <p>1.4 "Equipment" shall mean Equipment supplied by the Owner to the Hirer (and where the context so permits shall include any supply of Services as hereinafter defined).</p> <p>1.5 "Services" shall mean all services supplied by the Owner to the Hirer and includes any advice or recommendations (and where the context so permits shall include any supply of Equipment as defined supra).</p> <p>1.6 "Price" shall mean the cost of the Equipment as agreed between the Owner and the Hirer subject to clause 4 of this contract.</p> <p>2. Acceptance</p> <p>2.1 Any instructions received by the Owner from the Hirer for the supply of Equipment and/or the Hirer's acceptance of Equipment supplied by the Owner shall constitute acceptance of the terms and conditions contained herein.</p> <p>2.2 Where more than one Hirer has entered into this agreement, the Hirer's shall be jointly and severally liable for all payments of the Price.</p> <p>2.3 Upon acceptance of these terms and conditions by the Hirer the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of the Owner.</p> <p>2.4 None of the Owner's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Owner in writing nor is the Owner bound by any such unauthorised statements.</p> <p>2.5 The Hirer undertakes to give the Owner not less than fourteen (14) days prior written notice of any proposed change in the Hirer's name and/or any other change in the Hirer's details (including but not limited to, changes in the Hirer's address, facsimile number, or business practice).</p> <p>3. Equipment</p> <p>3.1 The Equipment are as described on the invoices, quotation, authority to hire or any other work commencement forms as provided by the Owner to the Hirer.</p> <p>4. Price And Payment</p> <p>4.1 At the Owner's sole discretion the Price shall be either;</p> <p>(a) as indicated on invoices provided by the Owner to the Hirer in respect of Equipment supplied; or</p> <p>(b) be the Owner's quoted Price (subject to clause 4.2) which shall be binding upon the Owner provided that the Hirer shall accept in writing the Owner's quotation within thirty (30) days.</p> <p>4.2 Any variation from the plan of scheduled works or specifications will be charged for on the basis of the Owner's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.</p> <p>4.3 At the Owner's sole discretion a deposit may be required. The deposit amount or percentage of the Price will be stipulated at the time of the order of the Equipment and shall become immediately due and payable. Time for payment for the Equipment shall be of the essence and will be stated on the invoice, quotation or any other order forms. If no time is stated then payment shall be on delivery of the Equipment.</p> <p>4.4 At the Owner's sole discretion, payment for approved Hirers shall be made by instalments in accordance with the Owner's delivery/payment schedule.</p> <p>4.5 At the Owner's sole discretion, for certain approved Hirers payment will be due fourteen (14) days following the date of the invoice.</p> <p>4.6 Payment will be made by cash on delivery, or by cheque, or by bank cheque, or by credit card, or by direct credit, or by any other method as agreed to between the Hirer and the Owner.</p> <p>4.7 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Owner.</p> <p>5. Delivery Of Equipment / Services</p> <p>5.1 Delivery of the Equipment shall be made to the Hirer's address. The Hirer shall make all arrangements necessary to take delivery of the Equipment whenever they are tendered for delivery, or delivery of the Equipment shall be made to the Hirer at the Owner's address.</p> <p>5.2 Delivery of the Equipment to a carrier, either named by the Hirer or failing such naming to a carrier at the discretion of the Owner for the purpose of transmission to the Hirer, is deemed to be a delivery of the Equipment to the Hirer.</p> <p>5.3 The Owner may deliver the Equipment by separate instalments (in accordance with the agreed delivery schedule). Each separate instalment shall be invoiced and paid for in accordance with the provisions in this contract of sale.</p> <p>5.4 Delivery of the Equipment to a third party nominated by the Hirer is deemed to be delivery to the Hirer for the purposes of this agreement.</p> <p>5.5 The failure of the Owner to deliver shall not entitle either party to treat this contract as repudiated.</p> <p>5.6 The Owner shall not be liable for any loss or damage whatever due to failure by the Owner to deliver the Equipment (or any of them) promptly or at all.</p> <p>6. Risk</p> <p>6.1 The Owner retains property in the Equipment nonetheless, all risk for the Equipment passes to the Hirer on delivery.</p> <p>6.2 The Hirer acknowledges that they are liable for any loss or damage to the equipment from the time of delivery until it is returned to or picked up by the Owner.</p> <p>6.3 The Hirer will insure, or self insure, the Owner's interest in the Equipment against physical loss or damage including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will effect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Hirer will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.</p> <p>6.4 The Hirer will accept all responsibility for all damage to property and injury caused during the period of hire to the Hirer, his servants, Owners or animals and shall hold the Owner harmless in respect thereof.</p> <p>6.5 In respect of all claims whether for workers compensation or third party liability or otherwise the Hirer shall comply with all statutes, regulations and industrial awards relating to the labour and effect all such insurances as may be necessary.</p> <p>6.6 The Hirer shall keep the Owner indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses.</p> <p>7. Hirer's Disclaimer</p> <p>7.1 The Hirer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any servant or agent of the Owner and the Hirer acknowledges that he buys the Equipment relying solely upon his own skill and judgement and that the Owner shall not be bound by nor responsible for any term, condition, representation or warranty other than the warranty given by the Manufacturer which warranty shall be personal to the Hirer and shall not be transferable to any subsequent Hirer.</p>	<p>8. Cancellation</p> <p>8.1 The Owner may cancel these terms and conditions or cancel delivery of Equipment at any time before the Equipment are delivered by giving written notice. The Owner shall not be liable for any loss or damage whatever arising from such cancellation.</p> <p>9. Warranty</p> <p>9.1 No Warranty is provided by the Owner in respect of the condition of the Equipment or its fitness for any particular purpose. The Hirer shall indemnify and hold harmless the Owner in respect of all claims arising out of use of the Equipment.</p> <p>10. The Commonwealth Trade Practices Act 1974 and Fair Trading Acts</p> <p>10.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Trade Practices Act 1974 or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.</p> <p>11. Hirer's Responsibilities</p> <p>The Hirer shall:</p> <p>(a) notify the Owner immediately by telephone of the full circumstances of any mechanical breakdown or accident. The Hirer is not absolved from the requirements to safeguard the Equipment by giving such notification.</p> <p>(b) satisfy itself at Commencement that the Equipment is suitable for its purposes;</p> <p>(c) operate the Equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturers instruction whether supplied by the Owner or posted on the Equipment;</p> <p>(d) ensure that all persons operating or erecting the Equipment are suitably instructed in its safe and proper use and where necessary hold a current Certificate of Competency and/or are full licensed;</p> <p>(e) comply with all occupational health and safety laws relating to the Equipment and its operation;</p> <p>(f) on termination of the hire, the Hirer shall deliver the Equipment complete with all parts and accessories clean and in good order as delivered, fair wear and tear accepted, to the Owner. The Hirer is not authorised to pledge the Owner's credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs;</p> <p>(g) keep the Equipment in their own possession and control and shall not assign the benefit of the hire contract nor be entitled to lien over the Equipment and the Hirer accepts full responsibility for the safekeeping of the Equipment and indemnifies the Owner for all loss theft or damage to the Equipment howsoever caused and without limiting the generality of the foregoing whether or not such loss theft or damage is attributable to any negligence failure or omission of the Hirer;</p> <p>(h) accept full responsibility for and indemnify the Owner against all claims in respect of any injury to persons or damage to property arising out of the use of the Equipment during the hire period however arising, whether from the negligence of the Hirer or any other persons including but without limitation where the Equipment is being operated for any reason by the Owner their servants or Owners;</p> <p>(i) not alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, plate or number on or in the Equipment or in any other manner interfere with the Equipment;</p> <p>(j) employ the Equipment solely in its own work and shall not permit the Equipment of any part thereof to be used by any other party for any other work;</p> <p>(k) accept full responsibility associated with any costs or liability due to the Equipment obstructing any person's. The Hirer shall also accept full responsibility associated with any costs or liability due to the Equipment being in a location that it shouldn't or if the equipment or Owner incurs any fines, towage costs or seizure costs or impoundment costs while the Equipment is in the custody of the Hirer.</p> <p>11.2 The Hirer shall not fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold.</p> <p>11.3 Immediately on request by the Owner the Hirer will pay:</p> <p>(a) The new list price of any Equipment which is for whatever reason not returned to Owner;</p> <p>(b) All costs incurred in cleaning the Equipment;</p> <p>(c) All costs of repairing any damage caused by the ordinary use of the Equipment up to an amount equal to 10% of the new list price of the Equipment;</p> <p>(d) The cost of repairing any damage to the Equipment caused by the negligence of the Hirer or the Hirer's Owner;</p> <p>(e) The cost of repairing any damage to the Equipment caused by vandalism, or (in Owner reasonable opinion) in any way whatsoever other than by the ordinary use of the Equipment by the Hirer.</p> <p>(f) The cost of fuels and consumables provided by Owner and used by the Hirer.</p> <p>11.6 The date upon which the Hirer advises of termination shall in all cases be treated as a full day's hire.</p> <p>12. Default & Consequences Of Default</p> <p>12.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.</p> <p>12.2 If the Hirer defaults in payment of any invoice when due, the Hirer shall indemnify the Owner from and against all the Owner's costs and disbursements including on a solicitor and own client basis and in addition all of the Owner's nominees costs of collection.</p> <p>12.3 Without prejudice to any other remedies the Owner may have, if at any time the Hirer is in breach of any obligation (including those relating to payment), the Owner may suspend or terminate the supply of Equipment to the Hirer and any of its other obligations under the terms and conditions. The Owner will not be liable to the Hirer for any loss or damage the Hirer suffers because the Owner exercised its rights under this clause.</p> <p>12.4 If any account remains unpaid at the end of the second month after supply of the Equipment or Services an immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable.</p> <p>12.5 In the event that:</p> <p>(a) any money payable to the Owner becomes overdue, or in the Owner's opinion the Hirer will be unable to meet its payments as they fall due; or</p> <p>(b) the Hirer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or</p>	<p>(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Hirer or any asset of the Hirer;</p> <p>then without prejudice to the Owner's other remedies at law</p> <p>(i) the Owner shall be entitled to cancel all or any part of any order of the Hirer which remains unperformed in addition to and without prejudice to any other remedies; and</p> <p>(ii) all amounts owing to the Owner shall, whether or not due for payment, immediately become payable in addition to the interest payable under clause 12.1 hereof.</p> <p>13. Title</p> <p>13.1 The Equipment is and will at all time remain the absolute property of the Owner.</p> <p>13.2 If the Hirer fails to return the Equipment to the Owner then the Owner or the Owner's agent may enter upon and into land and premises owned, occupied or used by the Hirer, or any premises as the invitee of the Hirer, where the Equipment is situated and take possession of the Equipment, without being responsible for any damage thereby caused.</p> <p>14. Security And Charge</p> <p>14.1 Despite anything to the contrary contained herein or any other rights which the Owner may have however:</p> <p>(a) Where the Hirer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Hirer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Owner or the Owner's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Hirer and/or the Guarantor acknowledge and agree that the Owner (or the Owner's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.</p> <p>(b) Should the Owner elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Hirer and/or Guarantor shall indemnify the Owner from and against all the Owner's costs and disbursements including legal costs on a solicitor and own client basis.</p> <p>(c) To give effect to the provisions of clause [14.1 (a) and (b)] inclusive hereof the Hirer and/or the Guarantor (if any) do hereby irrevocably nominate constitute and appoint the Owner or the Owner's nominee as the Hirer's and/or Guarantor's true and lawful attorney to execute mortgages and charges (whether registrable or not) including such other terms and conditions as the Owner and/or the Owner's nominee shall think fit in his/her/its/their absolute discretion against the joint and/or several interest of the Hirer and/or the Guarantor in any land, realty or asset in favour of the Owner and in the Hirer's and/or Guarantor's name as may be necessary to secure the said Hirer's and/or Guarantor's obligations and indebtedness to the Owner and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in the Owner's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.</p> <p>15. Privacy Act 1988</p> <p>15.1 The Hirer and/or the Guarantor/s agree for the Owner to obtain from a credit-reporting agency a credit report containing personal credit information about the Hirer and Guarantor/s in relation to credit provided by the Owner.</p> <p>15.2 The Hirer and/or the Guarantor/s agree that the Owner may exchange information about Hirer and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:</p> <p>(a) To assess an application by Hirer;</p> <p>(b) To notify other credit providers of a default by the Hirer;</p> <p>(c) To exchange information with other credit providers as to the status of this credit account, where the Hirer is in default with other credit providers; and</p> <p>(d) To assess the credit worthiness of Hirer and/or Guarantor/s.</p> <p>15.3 The Hirer consents to the Owner being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).</p> <p>15.4 The Hirer agrees that Personal Data provided may be used and retained by the Owner for the following purposes and for other purposes as shall be agreed between the Hirer and Owner or required by law from time to time:</p> <p>(a) provision of Services & Equipment;</p> <p>(b) marketing of Services and/or Equipment by the Owner, its agents or distributors in relation to the Services and Equipment;</p> <p>(c) analysing, verifying and/or checking the Hirer's credit, payment and/or status in relation to provision of Services/Equipment;</p> <p>(d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Hirer; and</p> <p>(e) enabling the daily operation of Hirer's account and/or the collection of amounts outstanding in the Hirer's account in relation to the Services and Equipment.</p> <p>15.5 The Owner may give, information about the Hirer to a credit reporting agency for the following purposes:</p> <p>(a) to obtain a consumer credit report about the Hirer; and/or</p> <p>(b) allow the credit reporting agency to create or maintain a credit information file containing information about the Hirer.</p> <p>16. General</p> <p>16.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.</p> <p>16.2 All Equipment supplied by the Owner are subject to the laws of Queensland and the Owner takes no responsibility for changes in the law which affect the Equipment supplied.</p> <p>16.3 The Owner shall be under no liability whatever to the Hirer for any indirect loss and/or expense (including loss of profit) suffered by the Hirer arising out of a breach by the Owner of these terms and conditions.</p> <p>16.4 In the event of any breach of this contract by the Owner the remedies of the Hirer shall be limited to damages. Under no circumstances shall the liability of the Owner exceed the Price of the Equipment.</p> <p>16.5 The Hirer shall not set off against the Price amounts due from the Owner.</p> <p>16.6 The Owner may license or sub-contract all or any part of its rights and obligations without the Hirer's consent.</p> <p>16.7 The Owner reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Owner notifies the Hirer of such change.</p> <p>16.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.</p>
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