

# Standard Terms and Conditions – Sale and Hire

## 1 Background and agreement

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### Background

- 1.1 You have requested, and We have agreed to:
- (a) sell the Product to You; or
  - (b) hire, rent, lease, supply, bail or otherwise make available the Hire Equipment to You for Use at the Site,
- in accordance with the terms of the Agreement.
- 1.2 In these Conditions:
- (a) “Us”, “Our”, “We” or “WINPRINT” means WINPRINT International Pty Limited ABN 32 084 311 562 and any of its Related Bodies Corporate; and
  - (b) “You” “Your” means the purchaser of the Product and/or the hirer, lessee, user or otherwise possessor of the Hire Equipment as stipulated on Your Order.

### Agreement

- 1.3 The contract between the parties comprises:
- (a) Your Order;
  - (b) these terms and conditions (**Conditions**); and
  - (c) any document referred to in Your Order as forming part of the Agreement,
- (together, the **Agreement**).
- 1.4 The acceptance of the Agreement by Us constitutes acceptance of the Agreement by You.
- 1.5 Subject to clause 6.6, the Agreement is accepted by Us immediately upon the earlier of:

- (a) Us providing You with written acceptance of Your Order (including by electronic means); and
- (b) Us delivering the Product and/or Hire Equipment to the Site.

## 2 Period of Hire

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- 2.1 You are authorised to Use the Hire Equipment for a period of 30 days from the date of delivery, unless otherwise agreed (**Term**).
- 2.2 This Agreement will automatically be renewed at the end of each Term for an additional Term, unless You otherwise provide Us with written notice that the Agreement is not to be renewed for an additional Term no later than 30 days before the end of the current Term.
- 2.3 In respect of a supply of Hire Equipment to You, this Agreement will continue from the date of acceptance by Us until the expiry of the Term or the termination of the Agreement.
- 2.4 At the earlier of:
- (a) the end of a Term that is not automatically renewed; or
  - (b) the termination of the Agreement,
- You, and Your Personnel where applicable, must:
- (c) immediately cease all Use, promotion and exploitation of the Hire Equipment;
  - (d) as soon as practicable, provide Us and Our Personnel with access to the Site and the Hire Equipment; and
  - (e) if We request, assist Us and Our Personnel in removing (including de-installing) the Hire Equipment from the Site.
- 2.5 Subject to clause 12, You will not be liable for the costs of Us removing (including de-installing) the Hire Equipment from the Site under clause 2.4.

### 3 Supply of Product and Hire Equipment

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- 3.1 We will deliver the Product and/or Hire Equipment in accordance with the terms in these Conditions and Your Order.
- 3.2 Each Product and/or Hire Equipment supplied under this Agreement will:
- (a) match the description in the Order;
  - (b) be of merchantable quality and fit for any purpose held out by Us;
  - (c) be free from Defects, including in design, material and workmanship; and
  - (d) comply with any relevant Australian standard or applicable law or regulation, including the Australian Consumer Law (if applicable).
- 3.3 Other than those expressly stated in clause 3.2, We exclude all rights, representations, guarantees, conditions, warranties, undertakings, remedies or other terms in relation to the Product and/or Hire Equipment to the maximum extent permitted by law.
- 3.4 Our liability to supply any quantity of Product and/or Hire Equipment is limited solely to the quantity specified in Your Order. Any quantities of Product and/or Hire Equipment previously discussed between the parties are estimates only and We will not be liable for Your failure to order the quantities You may have anticipated.

### 4 Payment

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#### Product

- 4.1 In consideration for You purchasing the Product from Us, You agree to pay the full Purchase Price and Freight Charge on or before the due date specified in Your Invoice.
- 4.2 WINPRINT reserves the right to require payment in full prior to or upon delivery of the Product.

#### Hire Equipment

- 4.3 In consideration for Us supplying You with and You Using the Hire Equipment at the Site, You agree to pay the Hire Fee and Freight Charge:
- (a) on or before the due date specified in Your Invoice; or
  - (b) if Your Invoice does not specify a due date for paying the Hire Fee and Freight Charge (if applicable) in respect of an additional Term, on or before the date that is the previous due date plus the number of days in the Term.
- 4.4 Subject to clause 4.5, the Hire Fee and Freight Charge payable in respect of the initial Term will be the same Hire Fee and Freight Charge (if applicable) payable in respect of any additional Term.
- 4.5 We may review the Hire Fee and/or Freight Charge in Our sole discretion at the end of a Term and will notify You of any adjustment to the Hire Fee and/or Freight Charge. Any adjustment to the Hire Fee and/or Freight Charge will take effect from the Term immediately following the Term in which You received notice of the adjustment.

#### Terms of payment

- 4.6 Each of the Purchase Price, Hire Fee and Freight Charge are to be paid in accordance with the agreed upon WINPRINT Account Payment Terms.
- 4.7 Each of the Purchase Price, Hire Fee and Freight Charge are:
- (a) inclusive of all applicable levies, taxes (except GST or VAT as applicable and indicated on the Order), duties, port charges, customs charges, insurance, rates, prices, mark-ups and other things that comprise the Purchase Price, Hire Fee and/or Freight Charge and are not subject to adjustment for rise and fall in the cost of labour, materials or any other items including for fluctuations in currency exchange rates;
  - (b) payable in Australian dollars, unless noted otherwise on the Order; and

- (c) inclusive of all tools, material, labour, installation and all other things necessary to supply and remove the Product and/or Hire Equipment (as applicable), subject to these Conditions.

4.8 If You fail to pay any amount due to Us arising out of or in connection with the Agreement by the due date (including any amount payable under clause 12.4(a)) then We may, without prejudice to any of Our other accrued or contingent rights, charge You interest on the amount unpaid (**Outstanding Amount**). The interest payable on the Outstanding Amount will be at the Bank Overdraft Rate calculated and accruing daily from the due date of payment until We receive the Outstanding Amount.

## 5 Delivery and delay

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### Delivery

- 5.1 Subject to clause 5.3 and manufacturing lead times, We will deliver the Product and/or Hire Equipment to the Site:
- (a) on or before the delivery day specified in the Order; or
  - (b) if no delivery day is specified in the Order, then within a reasonable time of Us receiving the Order.

5.2 You must provide Us access to and appropriate space at the Site for the proper delivery of the Product and/or Hire Equipment.

### Delay

- 5.3 We will:
- (a) take all reasonable steps and precautions to prevent the risk of any delays to the delivery of the Product and/or Hire Equipment; and
  - (b) upon becoming aware that there will be any delay to the delivery of the Product and/or Hire Equipment, promptly give You notice together with details of the delay.

## 6 Cancellation

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- 6.1 We may cancel Your Order for any reason before We accept the Order under clause 1.5.
- 6.2 If We are unable to deliver or provide the Product and/or Hire Equipment for any reason, then We may cancel Your Order (even if We have accepted Your Order) by notifying you in writing.
- 6.3 If We cancel Your Order under this clause 6 after You have paid the Purchase Price, Hire Fee and/or Freight Charge, We will refund You the amount You had paid within two weeks of Us cancelling the Order.
- 6.4 No purported cancellation or suspension of Your Order or any part of it by You is binding on Us once the Order has been accepted.
- 6.5 A cancellation of an Order under this clause does not constitute a termination of the Agreement under clause 12.

6.6 This clause 6 becomes binding immediately upon You placing Your Order.

## 7 Rejection and acceptance

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7.1 Any Product and/or Hire Equipment supplied by Us under these Conditions will be subject to further inspection and approval by You on or after delivery.

7.2 You may reject as defective any Product and/or Hire Equipment that does not comply with clause 3.2, provided that:

- (a) You give Us a written notice of rejection:
  - (i) in the case of a Defect that is apparent on normal visual inspection, within five Business Days of delivery; or
  - (ii) in the case of a latent Defect, within a reasonable time of the latent Defect having become apparent; and
- (b) none of the events listed in clause 7.4 apply.

- 7.3 You are deemed to have accepted the Product and/or Hire Equipment if You fail to give a notice of rejection in accordance with clause 7.2.
- 7.4 To the maximum extent permitted by law, We are not liable for a Product's and/or Hire Equipment's failure to comply with clause 3.2 in any of the following events:
- (a) You, Your Personnel or Your customers, guests, members or patrons make any further Use of or the Product and/or Hire Equipment after giving notice in accordance with clause 7.2;
  - (b) the Defect arises because You or Your Personnel failed to follow Our oral or written instructions for the storage, commissioning, installation, Use or maintenance of the Product and/or Hire Equipment or best industry practice;
  - (c) the Defect arises as a result of You or Your Personnel failing to comply with any drawing, design or specification We supply;
  - (d) You or Your Personnel alter, modify, repair, add to, tamper with or change the Product and/or Hire Equipment without Our written consent;
  - (e) the Defect arises out of the actions or omissions (including negligence) of You, Your Personnel or Your customers, guests, members or patrons; or
  - (f) the Defect arises as a result of changes made to ensure the Product and/or Hire Equipment comply with applicable statutory or regulatory requirements.
- 7.5 If You reject the Product and/or Hire Equipment under clause 7.2, then We may, at Our sole election
- (a) replace the rejected Product and/or Hire Equipment or supply an equivalent Product and/or Hire Equipment;
  - (b) repair the rejected Product and/or Hire Equipment;
  - (c) if You have not paid the Purchase Price and/or Hire Fee for the rejected Product and/or Hire Equipment (as applicable), release You from Your obligation to pay that amount; or
  - (d) if You have paid the Purchase Price and/or Hire Fee for the rejected Product and/or Hire Equipment, refund You that amount paid subject to You first restoring Us with unencumbered title to the rejected Product and/or Hire Equipment.
- 7.6 Immediately upon Us complying with clause 7.5, We will not be liable to You, and You have no further remedy (including under clause 12) arising out of or in connection with the rejected Product's and/or Hire Equipment's failure to comply with clause 3.2.
- ## 8 Ownership and risk
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- ### Product
- 8.1 Ownership of and title to the Product shall remain wholly with Us up until, and will pass to You immediately upon, the later of:
- (a) You paying Us the Purchase Price and Freight Charge in full;
  - (b) You accepting the Product under clause 7; and
  - (c) if applicable, Us installing the Product at the Site.
- 8.2 In the event that You have possession of the Product but ownership and title has not passed to You under clause 8.1:
- (a) You hold the Product as a fiduciary bailee and agent for Us and We are entitled to all rights and remedies afforded to a bailor at law;
  - (b) You must keep the Product separate from Your own products or goods and must not modify, alter or obscure any identification, marking or packaging that We have placed on the Product showing that the Product is Our exclusive property;
  - (c) You must not do any of the matters contemplated by clause 8.5 without Our written consent (which We can refuse for any reason in Our sole

discretion), but in respect of the Product;

- (d) in the event that the Product is sold to a third party, You must:
- (i) keep any and all proceeds from the sale in a separate bank account and promptly pay such proceeds to Us;
  - (ii) assign to Us the benefit of any claim against the third party; and
  - (iii) if applicable, You must pay the full Purchase Price to Us in addition to the proceeds from a sale of the Product; and
- (e) You grant Us and Our Personnel a licence to enter without notice the Site or any premises where the Product is stored to repossess the Product without liability for trespass or any resulting damage.

8.3 Any and all risk in the Product will remain wholly with Us up until, and pass wholly to You immediately upon, Us delivering the Product to the Site. If We collect the Product from the Site in accordance with these Conditions, any and all risk in the Product will pass back to Us upon the Product being removed from the Site.

#### Hire Equipment

8.4 We have and will retain absolute ownership of and title to the Hire Equipment and at no point will You have any legal or beneficial interest in the Hire Equipment.

8.5 Unless You have obtained Our written consent (which We can refuse for any reason in Our sole discretion), You are not permitted, either expressly or impliedly, to:

- (a) sell, lease, sublease, re-hire, encumber or grant or subject the Hire Equipment to any third party right or interest of any kind;
- (b) modify, copy, add to, alter, tamper or repair the Hire Equipment;
- (c) modify, alter or obscure any identification, marking or packaging that We have placed on the Hire Equipment showing that the Hire

Equipment is Our exclusive property; or

- (d) dispose of or otherwise remove the Hire Equipment from the Site.

8.6 In the event that the Hire Equipment is sold to a third party, You must keep any and all proceeds from the sale in a separate bank account and promptly pay such proceeds to Us. You must pay the full Hire Fee to Us in addition to the proceeds from a sale of the Hire Equipment.

8.7 Any and all risk in the Hire Equipment will remain wholly with Us up until, and pass wholly to You immediately upon, Us delivering the Product to the Site. When the Hire Equipment is removed by Us in accordance with these Conditions, all risk in the Hire Equipment will pass back to Us upon the Hire Equipment being removed from the Site.

## 9 Obligations for installation, maintenance and Use

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### Our obligations

#### *Product*

9.1 We agree to install the Product at the Site, if required.

9.2 To the maximum extent permitted by law, We will not be required to perform any modifications, maintenance, repairs, replacements or software upgrades or support (**Additional Services**) to the Product after We deliver the Product to the Site.

9.3 You may request Us to perform Additional Services on the Product, which We may refuse in Our sole discretion. If We agree to perform Additional Services on the Product, You will be liable for any payment in respect of such work and which amount will be determined by Us at a later date. For the avoidance of doubt, the Purchase Price is exclusive of the Additional Services.

#### *Hire Equipment*

9.4 We agree to:

- (a) install the Hire Equipment at the Site;
- (b) provide reasonable maintenance and repairs to the Hire Equipment during the Term and during normal trading hours upon reasonable notice by You; and
- (c) provide software support and upgrades in line with the current regulations from time to time as part of the general maintenance of all equipment, parts and machinery forming part of the Hire Equipment.

- (f) not Use the Hire Equipment for any purpose other than to comply with Your obligations under this Agreement and the Manuals (if applicable);
- (g) Use the Hire Equipment in accordance with the Manuals (if applicable) or Our directions provided to You from time to time;
- (h) ensure that the Hire Equipment is in a secure location and is protected from vandalism and damage by You, Your Personnel, customers, patrons, members or guests and any other third party;
- (i) ensure that Your Personnel receive proper and sufficient training, and that they cooperate with Our Personnel, in respect of the promotion and Use of the Hire Equipment; and
- (j) operate and comply with the player's terms of use when Using the Hire Equipment, which states that, except the term 'Product' means 'Hire Equipment' for the purposes of this clause:

"Product is supplied for your use and entertainment and is subject to the following conditions:

- Malfunction Voids All Pays and Play
- In the event this Product malfunctions please notify the closest staff member or return to book sales for assistances
- Limited Liability – in the event this Product malfunctions liability is limited to replacing the Product with new Product purchased as per the paper receipt issued at the time of purchase".

## Your obligations

### *Product*

- 9.5 You must provide adequate and appropriate space at the Site for the proper and installation of the Product.
- 9.6 If You request and We accept to provide any Additional Services, You must provide Us with reasonable access to the Site and to the Product in order for Us to perform the Additional Services.

### *Hire Equipment*

- 9.7 You must:
- (a) provide adequate and appropriate space at the Site for the proper installation and Use of the Hire Equipment;
  - (b) allow Us access to the Site at all reasonable times upon reasonable notice from Us in order for Us to comply with any of Our obligations under this Agreement, including for installing and repairing the Hire Equipment;
  - (c) ensure that all accessories, parts, components and equipment forming part of the Hire Equipment is included on Your public liability insurance cover;
  - (d) use Your best and reasonable efforts to protect and keep the Hire Equipment in good working condition;
  - (e) immediately notify Us of any damage to or malfunction of the Hire Equipment howsoever caused;

## 10 Inspection and access

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- 10.1 We may inspect the Site and the Hire Equipment at any time upon giving You one Business Days' notice.
- 10.2 You must provide Us reasonable access to the Site and any Product and/or Hire Equipment (as applicable) in order for Us to:

- (a) complete an inspection under clause 10.1;
- (b) complete any maintenance, repairs or replacements in accordance with these Conditions; or
- (c) remove the Product and/or Hire Equipment from the Site in accordance with these Conditions.

## 11 Returns other than for defects

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- 11.1 Subject to the terms of these Conditions (including the Australian Consumer Law), We will not accept a return of the Product and/or Hire Equipment unless first agreed in writing by Us.
- 11.2 If We agree (at Our absolute discretion) to accept the Product and/or Hire Equipment, You may be charged a recover collection and repackaging fee. The amount of this charge will be determined by Us and shall be deducted from the amount of any credit allowed for the return.

## 12 Termination

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### Termination by Us

- 12.1 We may terminate the Agreement immediately if:
  - (a) You become subject to an Insolvency Event;
  - (b) You fail to pay the Purchase Price, Hire Fee and/or Freight Charge when it falls due and payable;
  - (c) We reasonably consider that the Hire Equipment has been damaged howsoever caused, except by wear and tear; or
  - (d) You or Your Personnel otherwise breach any clause of these Conditions.
- 12.2 If We terminate the Agreement for any reason, You will be liable for and indemnify Us for any and all Loss We incur arising out of or in connection with Us removing the Hire Equipment under clause 2.4.

### Termination by You

- 12.3 You may terminate the Agreement immediately if:
  - (a) We breach a material clause of the Agreement; and
  - (b) We do not rectify that breach within 30 days of You notifying Us of the breach.

### Consequences of termination

- 12.4 On termination of the Agreement under this clause 12:
  - (a) all amounts owed by You to Us under the Agreement will become immediately due and payable;
  - (b) if the Agreement relates to the supply of Hire Equipment, You must immediately comply with clause 2.4;
  - (c) each party must return to the other party all documents and materials (and any copies) containing the other party's Confidential Information; and
  - (d) each party must erase all the other party's Confidential Information from its computer systems (to the greatest extent possible).

- 12.5 The following clauses of these Conditions survive the termination or expiry of the Agreement, together with any other term which by its nature is intended to do so:
  - (a) clause 2.4 (Removal of Hire Equipment)
  - (b) clause 4.8 (Outstanding Amount);
  - (c) clause 12.4 (Consequences of termination);
  - (d) clause 14 (Claims against WINPRINT);
  - (e) clause 15 (Indemnity);
  - (f) clause 17 (Confidentiality);
  - (g) clause 20.2 (Governing laws); and
  - (h) clause 20.7 (Joint and several).

## 13 PPSA

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- 13.1 Unless otherwise defined in clause 21, all terms defined in the PPSA have the same meaning where capitalised in these Conditions.
- 13.2 You agree to do anything that the We require for the purposes of:
- (a) ensuring that any Security Interest granted to Us is enforceable under the PPSA;
  - (b) enabling Us to gain highest possible priority for all Security Interests granted by You; and
  - (c) enabling Us to exercise Our rights in connection with any Security Interest.
- 13.3 You agree and acknowledge that:
- (a) anything that is required by You to be done under this clause 13 will be done by You at Your own expense. You agree to indemnify Us in connection with any action taken by Us under or in connection with this clause;
  - (b) these Conditions constitute a security agreement for the purposes of the PPSA and that a Security Interest exists in:
    - (i) all Hire Equipment previously supplied by Us to You and their proceeds (if any);
    - (ii) in all future Hire Equipment that may be supplied by Us to You (and their proceeds); and
    - (iii) in all products into which the Hire Equipment is incorporated, processed or comingled (and their proceeds);
  - (c) You contract out of and waive Your rights under the following provisions of the PPSA, to the extent permitted, sections 95, 96, 117, 118, 121(4), 129, 130, 132(2), 132(3)(d), 132(4), 134(2), 135, 136(3)-(5), 137(2), 138, 142, 143 and the right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded;

- (d) You must not give Us a written demand or allow any other person to give Us a written demand requiring Us to register a financing change statement under the PPSA or enter into or allow any other person to enter into the register of personal property securities a financing change statement under the PPSA;
- (e) You have received value as at the date of first delivery of the Hire Equipment and have not agreed to postpone the time for attachment of the Security Interest to the Supplier under these Conditions;
- (f) You irrevocably grant to Us the right to enter upon the Site or Your property or premises, without notice, and without being in any way liable to You or to any third party, if We have cause to exercise any of the Our rights under sections 123 and/or 128 of the PPSA, and You agree to indemnify Us from any claims made by any third party as a result of Us exercising such right;
- (g) pursuant to section 275(6) of the PPSA, You agree You will not disclose to an interested person any of the matters described in section 275(1) of the PPSA without Our prior approval; and
- (h) if You default in the performance of any obligation owed to Us, We may enforce Our Security Interest in any Hire Equipment by exercising all and/or any of Our right under these Conditions or the PPSA.

- 13.4 You agree that where We have rights in addition to those under part 4 of the PPSA, those rights will continue to apply.

## 14 Claims against WINPRINT

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- 14.1 Subject to clause 14.3, the maximum aggregate liability of Us to You is limited to:
- (a) the remedies in clause 7.5 if You reject the Product and/or Hire Equipment under clause 7.2; and
  - (b) the amount of \$10,000 for any other Claim (or series of connected Claims) or Loss arising out of or in connection with the Agreement howsoever

arising, whether in contract, tort (including negligence), statute or otherwise.

- (b) Us exercising any of Our rights under clause 8.2;
- (c) any loss of, or damage to, the Product and/or Hire Equipment, including errors, malfunctions and failures of software, resulting from:
  - (i) the negligence or wilful misconduct (including omissions) of You, Your Personnel or Your customers, guests, members or patrons; or
  - (ii) the insufficient training of Your Personnel;
- (d) Us performing modifications, repairs, replacements or maintenance to or on the Product and/or Hire Equipment otherwise as a result of any misuse, abuse, accident, negligence or wilful misconduct by You, Your Personnel or Your customers, guests, members or patrons;
- (e) any and all third party Claims, including Claims made or brought by Your Personnel, customers, guests, members or patrons;
- (f) where Our Personnel are accessing or located on the Site in connection with the Agreement:
  - (i) any loss of or damage to the real and personal property of You, Your Personnel, Your customers, guests, members or patrons or any other third party; and
  - (ii) personal injury, death or disease to any third party, including Your Personnel, customers, guests, members or patrons; and
- (g) any and all errors, malfunctions or failures to the software or hardware of the Product and/or Hire Equipment howsoever arising during its Use by You, Your customers, guests, members or patrons.

- 14.2 To the maximum extent permitted by law, We will not be liable in any circumstances for:
- (a) Defects or damage caused in whole or in part by misuse, abuse, neglect, improper installation, repair or alteration (other than by Us) or accident by Us, You or any third party;
  - (b) any and all errors, malfunctions or failures to the software or hardware of the Product and/or Hire Equipment occurring after delivery of the Product and/or Hire Equipment to the Site;
  - (c) Defects, damage, errors, malfunctions or failure to the software or hardware of the Product and/or Hire Equipment arising out of the insufficient training of Your Personnel or otherwise caused by Your Personnel; or
  - (d) Consequential Loss.

- 14.3 Nothing in these Conditions is intended to have the effect of excluding, restricting or modifying:
- (a) the application of all or any of the provisions of Part 5-4 of the Australian Consumer Law, or the exercise of a right conferred by such a provision, or any liability of Us in relation to a failure to comply with a guarantee that applies under Division 1 of Part 2-3 of the Australian Consumer Law to a supply of goods or services; or
  - (b) Our liability where such liability cannot otherwise be limited or excluded by applicable law.

## 15 Indemnity

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- 15.1 In addition to any other express indemnities contained in the Agreement, You indemnify and keep indemnified Us, Our Related Bodies Corporate and Our Personnel and hold them harmless from and against all Claims and Losses incurred, suffered or expended in respect of:
- (a) any breach of the Agreement by You or Your Personnel;

## 16 Force Majeure

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- 16.1 Neither party is in breach of this Agreement or is liable to the other party for any loss incurred by that other party as a direct result

of a party (**Affected Party**) failing or being prevented, hindered or delayed in the performance of its obligations under this Agreement where such prevention, hindrance or delay results from a Force Majeure Event, except for the payment of an Outstanding Amount or any other sum payable in respect of any obligations fulfilled prior to the Force Majeure Event.

(b) if the Recipient is required to disclose the information by applicable law or the rules of any recognised stock exchange or other document with statutory content requirements, provided that the Recipient has consulted with the provider of the information as to the form and content of the disclosure;

(c) where the disclosure is expressly permitted under the Agreement;

(d) where the disclosure is required for use in legal proceedings regarding the Agreement; or

(e) if the party to whom the information relates has consented in writing before the disclosure.

16.2 If a Force Majeure Event occurs, the Affected Party must take all reasonable steps to minimise the effect of the Force Majeure Event and must notify the other party (**Non-affected Party**) in writing as soon as practicable and that notice must state the particulars of the Force Majeure Event and the anticipated delay.

16.3 On providing the notice in clause 16.2 the Affected Party will be entitled to a reasonable extension of time for performing its obligations under the Agreement, however, the Affected Party must continue to use all reasonable endeavours to perform those obligations.

16.4 The performance of the affected obligations must be resumed as soon as practicable after such Force Majeure Event is removed or has ceased.

16.5 If the delay due to the Force Majeure Event continues for two months, the Non-affected Party may terminate this Agreement immediately on providing written notice to the Affected Party.

## 17 Confidentiality

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17.1 Each party (**Recipient**) must keep secret and confidential and not disclose any information relating to another party or its business (which is or has been disclosed to the Recipient by the other party, its representatives or advisers), the Agreement or its terms (including these Conditions) (**Confidential Information**), except:

(a) where the information is in the public domain as at the date of the Agreement (or subsequently becomes in the public domain other than by breach of any obligation of confidentiality binding on the Recipient);

17.2 The rights and obligations under this clause 14 continue after the termination of this Agreement.

## 18 Intellectual Property

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18.1 The supply of Product and/or Hire Equipment to You does not in any way confer on You any license or right(s) to Our Intellectual Property Rights.

18.2 All Pre-existing IP Rights remain Our sole property.

18.3 You grant Us a non-exclusive, royalty-free, non-transferable licence to use the Pre-Existing IP Rights owned by You for the sole purpose of Us supplying the Product and/or Hire Equipment.

## 19 Trustees

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You warrant that where You enter this agreement as a trustee, that You have the full power and authority to enter into these Conditions on behalf of the trust and that You shall be bound by these Conditions both personally and as trustee, irrespective of whether or not You disclose to WINPRINT that you are a trustee.

## 20 General

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### Construction

- 20.1 In these Conditions:
- (a) words in the singular include the plural and vice versa;
  - (b) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
  - (c) a reference to a person is to be construed as a reference to an individual, body corporate, unincorporated association, partnership, joint venture or government body;
  - (d) references to any document (including the Agreement) include references to the document as amended, consolidated, supplemented, novated or replaced;
  - (e) a reference to a statute includes a reference to all enactments amending or consolidating the statute and to an enactment substituted for the statute and any subordinate legislation, including regulations;
  - (f) monetary references are references to Australian currency;
  - (g) headings are included for convenience only and do not affect interpretation of this Agreement; and
  - (h) no provision will be construed adversely to a party solely on the grounds that the party was responsible for the preparation of this Agreement or that provision.

### Governing laws

- 20.2 The Agreement will be construed in accordance with the laws in force in South Australia and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of South Australia.

### Entire agreement

- 20.3 This Agreement represents the entire agreement between the parties and supersedes all prior representations, agreements, statements and understandings between the parties.

### Severance

- 20.4 In the event that the whole or any part or parts of any provisions in these Conditions is held to be void or unenforceable in whole or in part such provision or part will to that extent be severed from these Conditions but the validity and enforceability of the remainder of these Conditions will not be affected.

### Amendments to be in writing

- 20.5 Subject to clause 4.5, no amendment or variation to these Conditions has force unless it is in writing and signed by the parties.
- 20.6 Any amendment or variation to Orders must be properly approved (either by an amendment to the original Order or the issuance of an additional Order) before any Product and/or Hire Equipment is supplied by Us.

### Joint and several

- 20.7 An obligation of two or more persons under these Conditions binds them jointly and severally and every expressed or implied agreement or undertaking by which two or more persons derive any benefit in terms of these Conditions will take effect for the benefit of those persons jointly and severally.

### Waiver

- 20.8 The failure of a party to enforce a provision or the granting of any time or indulgence will not be construed as a waiver of the provision nor of a waiver of the right of the party at a later time to enforce the provision.

## 21 Definitions

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In these Conditions:

<i>Term</i>	<i>Meaning</i>	<i>Term</i>	<i>Meaning</i>
<b>Additional Services</b>	the meaning given in clause 9.2		obligations, liabilities, interest, verdicts, orders or judgments either at law or in equity, whether based in contract, tort (including negligence), statute or otherwise and irrespective of whether the matters giving rise to those claims are known to the parties as at the date of this Agreement
<b>Affected Party</b>	the meaning given in clause 16.1		
<b>Agreement</b>	has the meaning given to that term in clause 1.3		
<b>Australian Consumer Law</b>	the consumer law contained in Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth).		
<b>Bank Overdraft Rate</b>	2% over the annual interest rate charged by Commonwealth Bank of Australia for commercial overdraft facilities in excess of \$100,000.00.	<b>Defect</b>	a defect, error, omission, failure, irregularity or other aspect of the Product and/or Hire Equipment which does not comply with this Agreement, but not including wear and tear or any Defect caused by normal wear and tear
<b>WINPRINT Account Payment Terms</b>	the terms and conditions made by WINPRINT from time to time which govern how You are to make payments to WINPRINT	<b>Freight Charge</b>	the amount payable for hauling, delivering or transporting the Product and/or Hire Equipment to and/or from the Site as specified in Your Invoice
<b>Business Day</b>	a day other than a Saturday, Sunday or public holiday in Brisbane, Queensland	<b>Force Majeure Event</b>	any event, circumstance or cause not in a party's reasonable control including, without limitation: <ul style="list-style-type: none"> <li>(a) acts of God, flood, drought, earthquake or other natural disaster;</li> <li>(b) epidemic, pandemic or public health emergency (including COVID-19), and any resulting governmental action including work stoppages, mandatory business, service</li> </ul>
<b>Conditions</b>	the meaning in clause 1.3(b)		
<b>Consequential Loss</b>	loss of revenue, loss of profits, loss of anticipated savings or business, pure economic loss, loss of data, loss of value of equipment (other than the cost of repair), loss of opportunity or expectation loss and any other form of consequential, special, indirect, punitive or exemplary loss or damages		
<b>Claim</b>	includes all actions, suits, causes of action, arbitrations, claims, demands, proceedings, complaints and objections in respect of any debts, dues, costs, expenses,		

<i>Term</i>	<i>Meaning</i>	<i>Term</i>	<i>Meaning</i>
	<p>or workplace closures, full or partial lockdown of affected areas, quarantines, border closures and travel restrictions, to the extent that there has been a material change in the impacts of the relevant event or circumstance on a party after the date of an Order;</p>		<p>action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); or</p>
	<p>(c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo or breaking off of diplomatic relations;</p>		<p>(i) interruption or failure of a utility service</p>
	<p>(d) nuclear, chemical or biological contamination, or sonic boom;</p>		
	<p>(e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;</p>		
	<p>(f) collapse of buildings, fire, explosion or accident;</p>		
	<p>(g) cybercrime, cyber incidents and data breaches;</p>		
	<p>(h) any labour or trade dispute, strikes, industrial</p>		
		<b>Goods</b>	<p>each and all of the:</p> <p>(a) printed goods or products;</p> <p>(b) electronic goods or products;</p> <p>(c) hardware and associated software;</p> <p>(d) materials;</p> <p>(e) accessories;</p> <p>(f) any equipment, fixtures, fittings or materials related to the Goods listed in the preceding paragraphs; and</p> <p>(g) any other item, material or product WINPRINT identifies as being subject to these Conditions,</p> <p>owned, hired or leased by WINPRINT, including any modifications or upgrades made by WINPRINT from time to time</p>
		<b>Hire Equipment</b>	<p>individually and collectively any Goods hired, rented, leased, supplied, bailed or otherwise</p>

<i>Term</i>	<i>Meaning</i>	<i>Term</i>	<i>Meaning</i>
	made available to You by WINPRINT (whether or not for consideration) as specified in Your Order, but not Goods that are Product		time to time in Our sole discretion
<b>Hire Fee</b>	the amount payable by You for the Hire Equipment as specified in Your Invoice	<b>Non-affected Party</b>	the meaning given in clause 16.2
<b>Intellectual Property Rights</b>	all intellectual property rights of any kind, in any jurisdiction, subsisting now or in the future (including, without limitation, business, company or trade names, domain names, patents, inventions, copyright, design rights, know-how, trade marks, the right to sue for passing off and rights to use, and protect the confidentiality of, confidential information), whether registered or unregistered, and including the rights to apply for or renew the registration of any such rights and any rights the subject of any lapsed application or registration	<b>Order</b>	the order for the Product and/or Hire Equipment (as applicable) placed by You and to which these Conditions apply
		<b>Outstanding Amount</b>	the meaning in clause 4.8
		<b>Personnel</b>	in relation to a party, the party's officers, directors, employees, agents, volunteers and contractors
		<b>PPSA</b>	<i>Personal Property and Securities Act 2009</i> (Cth)
		<b>Pre-existing IP Rights</b>	Intellectual Property Rights in all materials owned by You or WINPRINT independent of these Conditions
		<b>Product</b>	individually and collectively any Goods sold to You by WINPRINT as specified in Your Order
		<b>Purchase Price</b>	the price payable by You for the Product as specified in Your Invoice
<b>Invoice</b>	an invoice for the purchase of Product and/or the supply of Hire Equipment	<b>Related Bodies Corporate</b>	the meaning given in the <i>Corporations Act 2009</i> (Cth)
<b>Loss</b>	any loss, costs, damages, harm to reputation, expenses and liabilities, including legal fees, costs and disbursements	<b>Site</b>	the premises where specified in Your Order
		<b>Term</b>	the meaning given in clause 2.1
<b>Manuals</b>	(a) any user, operational or other manuals in respect of the Hire Equipment as determined, adopted and varied by Us from	<b>Use</b>	means to use, deal with or otherwise operate, and "Using" will be interpreted accordingly