Australasia Sports Timing Pty Limited – Terms & Conditions of Trade

1. Definitions

1.1 "Contract" means the terms and conditions contained herein, together with any Quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.

1.2 "AST" means Australasia Sports Timing Pty Limited, its successors and assigns or any person acting on behalf of and with the authority of Australasia Sports Timing Pty Limited.

1.3 "Client" means the person/s, entities or any person acting on behalf of(a) and with the authority of the Client requesting AST to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:

(a) if there is more than one Client, is a reference to each Client jointly and severally; and

(b) if the Client is a partnership, it shall bind each partner jointly and severally; and

(c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and

(d) includes the Client's executors, administrators, successors and permitted assigns.

1.4 "Goods" means all Goods or Services supplied by AST to the Client at the Client's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).

1.5 "Equipment" means all Equipment including any accessories supplied on hire by AST to the Client (and where the context so permits shall include any supply of Services). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation form provided by AST to the Client.

1.6 "Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, **"Personal Information"** such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.

1.7 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. **If the Client does not wish to allow Cookies to operate in the background when ordering from the website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Goods via the website.**

1.8 "Price" means the Price payable (plus any GST where applicable) for the Goods and/or Equipment hire as agreed between AST and the Client in accordance with clause 5 below.

1.9 "GST" means Goods and Services Tax as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).

2. Acceptance

2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts Delivery of the Goods/Equipment.

2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.

2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.

2.4 The Client acknowledges that the supply of Goods/Equipment on credit shall not take effect until the Client has completed a credit application with AST and it has been approved with a credit limit established for the account.

2.5 In the event that the supply of Goods/Equipment request exceeds the Clients credit limit and/or the account exceeds the payment terms, AST reserves the right to refuse Delivery.

2.6 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

2.7 These terms and conditions may be meant to be read in conjunction with AST's Loan Equipment Form, and:

(a) where the context so permits, the terms 'Goods' or 'Services' shall include any supply of any Loan Equipment, as defined therein; and

(b) if there are any inconsistencies between the two documents then the terms and conditions contained herein shall prevail.

2.8 All literature, samples, specifications, dimensions and weights submitted with this quotation are approximate only and the data and descriptions contained in catalogues and other advertising material while being as accurate as possible may not necessarily be identical with products and services AST supplies, and AST reserves the right to supply products that have minor modifications in specifications as AST sees fit.

2.9 The descriptions, illustrations and performances contained in catalogues, other advertising material and price lists do not form part of the Contract of sale of the products.

3. Errors and Omissions

3.1 The Client acknowledges and accepts that AST shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):

(a) resulting from an inadvertent mistake made by AST in the formation and/or administration of this Contract; and/or

(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by AST in respect of the Services.

3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of AST; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

4.1 The Client shall give AST not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, change of trustees, or business practice). The Client shall be liable for any loss incurred by AST as a result of the Client's failure to comply with this clause.

5. Price and Payment

5.1 At AST's sole discretion the Price shall be either:

(a) as indicated on any invoice provided by AST to the Client; or

(b) the Price as at the date of Delivery of the Goods/Equipment according to AST's current price list; or

(c) AST's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

5.2 AST reserves the right to change the Price:

(a) if a variation to the Goods which are to be supplied is requested; or

(b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or

(c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited, limitations to accessing the AST supplies, site defects, safety considerations, prerequisite work by any third party not being completed or hidden pipes or wiring, etc.) which are only discovered on commencement of the Services; or

(d) in the event of increases to AST in the cost of labour and materials (including, but not limited to, overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges, etc.) which are beyond the control of AST.

5.3 Variations will be charged for on the basis of AST's quotation, and will be detailed in writing, and shown as variations on AST's invoice. The Client shall be required to respond to any variation submitted by AST within ten (10) working days. Failure to do so will entitle AST to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.

5.4 At AST's sole discretion a deposit may be required.

5.5 Time for payment for the Goods/Equipment being of the essence, the Price will be payable by the Client on the date/s determined by AST, which may be:

(a) on Delivery of the Goods/Equipment;

(b) before Delivery of the Goods/Equipment;

(c) by way of instalments/progress payments in accordance with AST's payment schedule;

(d) thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices;

(e) the date specified on any invoice or other form as being the date for payment; or

(f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by AST.

5.6 Payment may be made by cheque, bank cheque, electronic/on-line banking, or by any other method as agreed to between the Client and AST.

5.7 AST may in its discretion allocate any payment received from the Client towards any invoice that AST determines and may do so at the time of receipt or at any time afterwards. On any default by the Client AST may re-allocate any payments previously received and allocated. In the absence of any payment allocation by AST, payment will be deemed to be allocated in such manner as preserves the maximum value of AST's Purchase Money Security Interest (as defined in the PPSA) in the Goods/Equipment.

5.8 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by AST nor withhold payment of any invoice because part of that invoice is in dispute.

5.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to AST an amount equal to any GST AST must pay for any supply by AST under this or any other agreement for the sale of the Goods/hire of the Equipment. The Client must pay GST, without deduction or set off of any other amounts, at the same time and in the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

6. Delivery of Goods/Equipment

6.1 Delivery ("**Delivery**") of the Goods/Equipment is taken to occur at the time that:

(a) the Client or the Client's nominated carrier takes possession of the Goods/Equipment at AST's address; or

(b) AST (or AST's nominated carrier) delivers the Goods/Equipment to the Client's nominated address even if the Client is not present at the address.

6.2 At AST's sole discretion the cost of delivery is either included in the Price or is in addition to the Price.

6.3 AST may deliver the Goods/Equipment in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

6.4 Any time specified by AST for Delivery of the Goods/Equipment is an estimate only and AST will not be liable for any loss or damage incurred by the Client as a result of Delivery being late. However both parties agree that they shall make every endeavour to enable the Goods/Equipment to be delivered at the time and place as was arranged between both parties. In the event that AST is unable to supply the Goods/Equipment as agreed solely due to any action or inaction of the Client, then AST shall be entitled to charge a reasonable fee for redelivery and/or storage.

Goods On Consignment

Where Goods are supplied on consignment the following provisions apply specifically to those Goods:

the Goods shall be at the Client's risk from the time of Delivery and the Client shall be responsible for insuring the Goods.

the Client may return possession of the Goods until the Client sells them or AST requires re-delivery of them to AST, whichever first occurs.

if AST requires re-delivery of the Goods such re-delivery shall be at the Client's cost.

the Client shall notify AST on a fortnightly basis of all consignment Goods sold during that fortnightly period and shall within seven (7) days of that fortnightly advice pay AST for the Goods sold.

Risk

Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.

If any of the Goods are damaged or destroyed following Delivery but prior to ownership passing to the Client, AST is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by AST is sufficient evidence of AST's rights to receive the insurance proceeds without the need for any person dealing with AST to make further enquiries.

If the Client requests AST to leave Goods outside AST's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at the Client's sole risk.

AST shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client. The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, AST accepts no responsibility for any loss or damage howsoever resulting from these inaccurate plans, specifications or other information.

Where AST is required to install the Goods the Client warrants that the structure of the premises or equipment in or upon which these Goods are to be installed or erected is sound and will sustain the installation and work incidental thereto and AST shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto.

Where AST gives any advice, recommendation, information, assistance or service provided by AST in relation to Goods or Services supplied is given in good faith to the Client, or the Client's agent and is based on AST's own knowledge and experience and shall be accepted without liability on the part of AST. Where such advice or recommendation is not acted upon then AST shall not require the Client or their agent to authorise commencement of the Services in writing. AST shall not be liable in any way whatsoever for any damages or losses that occur after any subsequent commencement of the Services.

Access

The Client shall ensure that AST has clear and free access to the work site at all times to enable them to undertake any Services (including carrying out site inspections, gain signatures for required documents, and for the delivery and installation of the Goods). AST shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of AST.

Underground Locations

Prior to AST commencing any work the Client must advise AST of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site.

Whilst AST will take all care to avoid damage to any underground services the Client agrees to indemnify AST in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 10.1.

Compliance with Laws

The Client and AST shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services, any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation.

The Client shall obtain (at the expense of the Client) all licenses, approvals, applications and permits that may be required for the Services, and that are not included in the project documents provided by AST.

Title to Goods

AST and the Client agree that ownership of the Goods shall not pass until:

the Client has paid AST all amounts owing to AST; and

the Client has met all of its other obligations to AST.

Receipt by AST of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.

It is further agreed that until ownership of the Goods passes to the Client in accordance with clause 12.1:

the Client is only a bailee of the Goods and must return the Goods to AST on request.

the Client holds the benefit of the Client's insurance of the Goods on trust for AST and must pay to AST the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;

the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for AST and must pay or deliver the proceeds to AST on demand;

the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of AST and must sell, dispose of or return the resulting product to AST as it so directs;

the Client irrevocably authorises AST to enter any premises where AST believes the Goods are kept and recover possession of the Goods;

AST may recover possession of any Goods in transit whether or not Delivery has occurred;

the Client may not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of AST;

AST may commence proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods has not passed to the Client.

Personal Property Securities Act 2009 ("PPSA")

In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods/Equipment and/or collateral (account) being a monetary obligation of the Client to AST for Services – that have previously been supplied and that will be supplied in the future by AST to the Client.

The Client undertakes to:

promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which AST may reasonably require to;

(i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;

(ii) register any other document required to be registered by the PPSA; or

(iii) correct a defect in a statement referred to in clause 13.3(a)(i) or 13.3(a)(ii);

indemnify, and upon demand reimburse, AST for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods/Equipment charged thereby;

not register a financing change statement in respect of a security interest without the prior written consent of AST;

not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods/Equipment and/or collateral (account) in favour of a third party without the prior written consent of AST;

immediately advise AST of any material change in its business practices of selling Goods which would result in a change in the nature of proceeds derived from such sales.

AST and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

Unless otherwise agreed to in writing by AST, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.

The Client must unconditionally ratify any actions taken by AST under clauses 13.2 to 13.5.

Subject to any express provisions to the contrary (including those contained in this clause 13), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

Only to the extent that the hire of the Equipment exceeds a two (2) year hire period with the right of renewal shall clause 13 apply as a security agreement in the form of a PPS Lease in respect of Section 20 of the PPSA, in all other matters this clause 13 will apply generally for the purposes of the PPSA.

Security and Charge

In consideration of AST agreeing to supply the Goods/Equipment, the Client charges all of its rights, title and interest (whether joint or both severally) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

The Client indemnifies AST from and against all AST's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising AST's rights under this clause.

The Client irrevocably appoints AST and each director of AST as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Client's behalf.

Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

The Client must inspect the Goods/Equipment on Delivery and must within seven (7) days of Delivery notify AST in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Goods/Equipment as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow AST to inspect the Goods/Equipment.

Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).

AST acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, AST makes no warranties or other representations under these terms and conditions (including, but not limited to the quality or suitability of the Goods/Equipment. AST's liability in respect of these warranties is limited to the fullest extent permitted by law.

If the Client is a consumer within the meaning of the CCA, AST's liability is limited to the extent permitted by section 64A of Schedule 2

If AST is required to replace the Goods under this clause or the CCA, but is unable to do so, AST may refund any money the Client has paid for the Goods.

If the Client is not a consumer within the meaning of the CCA, AST's liability for any defect or damage in the Goods is:

limited to the value of any express warranty or warranty card provided to the Client by AST at AST's sole discretion;

limited to any warranty to which AST is entitled, if AST did not manufacture the Goods;

otherwise negated absolutely.

Subject to this clause 15, returns will only be accepted provided that: the Client has complied with the provisions of clause 15.1; and

AST has agreed that the Goods are defective; and

the Goods are returned within a reasonable time at the Client's cost (if that cost is not significant); and

the Goods are returned in as close a condition to that in which they were delivered as is possible.

Notwithstanding clauses 15.1 to 15.8 but subject to the CCA, AST shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:

the Client failing to properly maintain or store any Goods/Equipment;

the Client using the Goods/Equipment for any purpose other than that for which they were designed;

the Client continuing the use of the Goods/Equipment after any defect became apparent or should have become apparent to a reasonably competent operator or user;

the Client failing to follow any instructions or guidelines provided by AST;

fair wear and tear, any accident, or act of God.

In the case of second hand Goods, unless the Client is a consumer under the CCA, the Client acknowledges that it has had full opportunity to inspect the second hand Goods prior to Delivery and accepts them with all faults and that to the extent permitted by law no warranty is given by AST as to the quality or suitability for any purpose and any implied warranty, statutory or otherwise, is expressly excluded. The Client acknowledges and agrees that AST has agreed to provide the Client with the second hand Goods and calculated the Price of the second hand Goods in reliance of this clause 15.10.

AST may in its absolute discretion accept non-defective Goods for return in which case AST may require the Client to pay handling fees of up to twenty-five percent (25%) of the value of the returned Goods plus any freight costs.

Notwithstanding anything contained in this clause if AST is required by a law to accept a return then AST will only accept a return on the conditions imposed by that law.

Subject to clause 15.1, customised, or non-stocklist items or Goods made or ordered to the Client's specifications are not acceptable for credit or return.

Intellectual Property

Where AST has designed, drawn or developed Goods/Equipment for the Client, then the copyright in any designs and drawings and documents shall remain the property of AST. Under no circumstances may the designs, drawings and documents be used without the express written approval of AST.

The Client warrants that all designs, specifications or instructions given to AST will not cause AST to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify AST against any action taken by a third party against AST in respect of any such infringement.

The Client agrees that AST may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Goods which AST has created for the Client.

Default and Consequences of Default

Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at AST's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

If the Client owes AST any money the Client shall indemnify AST from and against all costs and disbursements incurred by AST in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, AST's contract default fee, and bank dishonour fees).

Further to any other rights or remedies AST may have under this Contract, if a Client has made payment to AST, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by AST under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.

Without prejudice to AST's other remedies at law AST shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to AST shall, whether or not due for payment, become immediately payable if:

any money payable to AST becomes overdue, or in AST's opinion the Client will be unable to make a payment when it falls due;

the Client has exceeded any applicable credit limit provided by AST;

the Client 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

a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

Cancellation

Without prejudice to any other remedies AST may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions AST may suspend or terminate the supply of Goods/Equipment to the Client. AST will not be liable to the Client for any loss or damage the Client suffers because AST has exercised its rights under this clause.

AST may cancel any contract to which these terms and conditions apply or cancel Delivery of Goods/Equipment at any time before the Goods/Equipment are due to be delivered by giving written notice to the Client. On giving such notice AST shall repay to the Client any money paid by the Client for the Goods/Equipment. AST shall not be liable for any loss or damage whatsoever arising from such cancellation.

In the event that the Client cancels Delivery of the Goods/Equipment the Client shall be liable for any and all loss incurred (whether direct or indirect) by AST (as a direct result of the cancellation (including, but not limited to, any loss of profits).

Cancellation of orders for Goods/Equipment made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

Dispute Resolution

Any dispute or difference arising as to the interpretation of these terms and conditions or as to any matter arising hereunder, shall be submitted to, and settled by, either arbitration or the relevant governing agency for the state in which the Services were performed such as:

in accordance with the Commercial Arbitration Act 2011 or its replacement(s); or

Victorian Civil and Administrative Tribunal (VCAT).

Privacy Policy

All emails, documents, images or other recorded information held or used by AST is Personal Information, as defined and referred to in clause 20.3, and therefore considered Confidential Information. AST acknowledges its obligation in relation to the handling, use, disclosure and protection of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements where relevant in a European Economic Area ("EEA") under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). AST acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Clients Personal Information held by AST that may result in serious harm to the Client, AST will notify the Client in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.

Notwithstanding clause 20.1, privacy limitations will extend to AST in respect of Cookies where transactions for purchases/orders transpire directly from AST's website. AST agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), technology allows the collection of Personal Information such as the Client's:

IP address, browser, email client type and other similar details;

tracking website usage and traffic; and

reports are available to AST when AST sends an email to the Client, so AST may collect and review that information ("collectively Personal Information")

In order to enable / disable the collection of Personal Information by way of Cookies, the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via AST's website.

The Client agrees for AST to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Client in relation to credit provided by AST.

The Client agrees that AST may exchange information about the Client with those credit providers and with related body corporates for the following purposes:

to assess an application by the Client; and/or

to notify other credit providers of a default by the Client; and/or

to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or

to assess the creditworthiness of the Client including the Client's repayment history in the preceding two years.

The Client consents to AST being given a consumer credit report to collect overdue payment on commercial credit.

The Client agrees that personal credit information provided may be used and retained by AST for the following purposes (and for other agreed purposes or required by):

the provision of Goods/Equipment; and/or

analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods/Equipment; and/or

processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or

enabling the collection of amounts outstanding in relation to the Goods/Equipment.

AST may give information about the Client to a CRB for the following purposes:

to obtain a consumer credit report;

allow the CRB to create or maintain a credit information file about the Client including credit history.

The information given to the CRB may include:

Personal Information as outlined in 20.3 above;

name of the credit provider and that AST is a current credit provider to the Client;

whether the credit provider is a licensee;

type of consumer credit;

details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);

advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and AST has been paid or otherwise discharged and all details surrounding that discharging (e.g. date of payment);

information that, in the opinion of AST, the Client has committed a serious credit infringement;

advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars ($150).

The Client shall have the right to request (by e-mail) from AST:

a copy of the Personal Information about the Client retained by AST and the right to request that AST correct any incorrect Personal Information; and

that AST does not disclose any Personal Information about the Client for the purpose of direct marketing.

AST will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with any law.

The Client can make a privacy complaint by contacting AST via e-mail. AST will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au

Unpaid Seller's Rights

Where the Client has left any item with AST for repair, modification, exchange or for AST to perform any other service in relation to the item and AST has not received or been tendered the whole of any monies owing to it by the Client, AST shall have, until all monies owing to AST are paid:

a lien on the item;

the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods.

The lien of AST shall continue despite the commencement of proceedings or judgment for any monies owing to AST having been obtained against the Client.

Equipment Hire

Equipment shall at all times remain the property of AST and is returnable on demand by AST. In the event that Equipment is not returned to AST in the condition in which it was delivered AST retains the right to charge the Client the full cost of repairing the Equipment. In the event that Equipment is not returned at all AST shall have right to charge the Client the full cost of replacing the Equipment.

The Client shall:

keep the Equipment in their own possession and control and shall not assign the benefit of the Equipment nor be entitled to a lien over the Equipment;

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;

keep the Equipment, complete with all parts and accessories, clean and in good order as delivered, and shall comply with any maintenance schedule as advised by AST to the Client;

keep the Equipment at the address that has been agreed upon by AST and shall not move the Equipment from this location unless prior written authorisation has been provided by AST.

The Client accepts full responsibility for the safekeeping of the Equipment and the Client agrees to insure, or self insure, AST's interest in the Equipment and agrees to indemnify AST 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 and keep in force a public insurance covering any loss, damage or injury to property or persons arising out of the use of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.

Notwithstanding the above clauses, immediately on request by AST the Client will pay:

any lost hire charges AST would have otherwise been entitled to for the Equipment, under this, or any other hire agreement;

any insurance excess payable in relation to a claim made by either the Client or AST in relation to any damage caused by, or to, the hire Equipment whilst the same is hired by the Client and irrespective of whether charged by the Client's insurers or AST's.

Return of the Equipment ("**Return**") will be completed when:

the Equipment is returned by the Client to AST's place of business; or

when AST takes back possession of the Equipment once collection by AST is affected.

Trusts

If the Client at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not AST may have notice of the Trust, the Client covenants with AST as follows:

the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;

the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the Trust fund. The Client will not release the right of indemnity, or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.

the Client will not without consent in writing of AST (AST will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:

(i) the removal, replacement or retirement of the Client as trustee of the Trust;

(ii) any alteration to or variation of the terms of the Trust;

(iii) any advancement or distribution of capital of the Trust; or

(iv) any resettlement of the trust property.

General

The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision.

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.

These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria, the state in which AST has its principal place of business, and are subject to the jurisdiction of the Melbourne Courts of Victoria.

Subject to clause 15, AST shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by AST of these terms and conditions (alternatively AST's liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods).

AST may license and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.

The Client cannot licence or assign without the written approval of AST.

AST may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of AST's subcontractors without the authority of AST.

The Client agrees that AST may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for AST to provide Goods/Equipment to the Client.

Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.

Please note that a larger print version of these terms and conditions is available from AST on request.

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