



Standard Conditions of Hire

Subject to the state in which PSC use is taking place, this Hire Agreement is a claim for payment under the Building & Construction Security of Payment Act 1999(NSW) or similar legislation in any other state or territory.

1. Definitions

"PSC" refers to Portable Safety Cam Unit and may or may not include fixed and zoom cameras with magnetic attach brackets, fire retardant cable, Monitoring Station and three carry cases per unit.

"Owner" of Plant is Portable Safety Cam (ABN 62 606 494 116)

"Customer" refers to the person, firm, organization, partnership, corporation or other entity hiring Plant from the Owner, as identified in the Hire Agreement.

"Plant" means all equipment including tools, portable equipment, accessories and parts supplied to the Customer.

"Environment Laws" means any statute, policy directions or regulations made or issued by a regulatory body or government body regulation or otherwise relating to the environment including without limitation the use or protection of the environment.

"Hire Agreement" means the agreement between the Owner and Customer for the hire of Plant which includes:

- (a) any Credit Application;
- (b) these Standard Conditions of Hire, and
- (c) any Hire Agreement provided to the Customer by the Owner, whether signed or not.

2. Title to Plant

The Customer acknowledges that in all circumstances the Owner retains title to the Plant (even if the Customer goes into liquidation or becomes bankrupt during the Hire Period) and in no circumstances will it be deemed to be a fixture. The rights of the Customer to use the Plant are as a bailee only.

The Customer will not be entitled to offer, sell, assign, sub-let, mortgage, pledge or otherwise deal with the Plant in any way which is inconsistent with the rights of the Owner as owner of the Plant.

3. Hire Period

- 3.1 Subject to clause 3.3 the period of hire commences when the Customer takes possession of the Plant or when the Owner delivers the Plant in accordance with the Customer's instructions and the period of hire ends when the Plant is back in the possession of the Owner (in total, the "Hire Period"). The Hire Period includes weekends and public holidays and is irrespective of the time the Plant is being used.
- 3.2 The Customer is to be charged for the Hire Period and the Customer is entitled to use the Plant for the Hire Period. Any variation to the Hire Period must be agreed by the Owner.
- 3.3 Should the Owner agree with the Customer that the Owner will deliver and collect the Plant, hire charges will commence from the time the Plant leaves the Owner's premises and continue until the Owner is notified by the Customer of the date that the Plant is available for collection ("Off-Hire Date"), at which times the Owner will give the Customer a number as verification that such notification has been received ("Off-Hire Number"). The notification will be given by the Customer in time for the Plant to be picked up

and returned to the Owner's premises within the Owner's normal business hours by the Off-Hire Date. In the event of insufficient notice being given, the Customer will be charged a minimum of an extra half day hire at the Owner's absolute discretion. The Hire Period on the Hire Agreement will not be deemed notice to the Owner that the Plant is available for collection. Where the Owner agrees to collect the Plant the Customer remains responsible for theft, loss or damage to the Plant until the Plant is collected by the Owner.

3.4 The Hire Agreement will specify the type of rate which will apply (e.g. 'Weekly', or '5 Day +', 'monthly' or 'annual'). Plant hired for at least 5 days in a seven day continuous period, will be charged at the 'weekly rate'.

3.5 The Owner reserves the right to charge a minimum period of hire. Minimum 7 Days hire.

4. Hire Charges and Other Charges

4.1 **Hire:** Subject to clause 4.10, the Customer will pay the Owner the hire charges set out in the Hire Agreement. The Customer is not entitled to any discount or rebate if the Plant is not used by the Customer for the entire Hire Period.

4.2 **Other Services:** The Owner will, if requested by the Customer, and only if personnel are available, attend the site and instruct the Customer in the operation of the Plant. The Customer will in addition to the hire charges pay the Owner for such services. Any other additional services provided to the Customer, will be paid for by the Customer at rates agreed with the Owner.

4.3 **Consumables & Trade Materials:** The Customer will be liable for charges made for consumables and trade materials provided by the Owner. Such as screen replacement and bulbs but not limited to.

4.4 **Tax and Government Charges:** The Customer will be liable to stamp/hire duty, GST and all other applicable taxes, duties, levies, penalties and any other government charges imposed on the Hire Agreement or in respect of the Hire Period. Where the Customer claims exemption from duty or tax the Customer must furnish appropriate exemption certificates to the Owner.

4.5 **Credit Card Payments:** The Customer acknowledges that the Owner may impose a charge for accepting payments by credit card.

4.6 **Delivery:** If the Customer requires the Owner to deliver, collect or install the Plant, the Customer will be liable for the cost of delivery, collection or installation. The Owner will not be responsible for any delays in delivery or installation, or failure to deliver due to causes beyond its control including but not limited to acts of God, war, terrorism, mobilisation, civil commotions, riots, embargoes, orders or regulations or governments of any relevant jurisdiction, fires, floods, strikes, lockouts or other labour difficulties, shortages of or inability to obtain shipping space or land transportation.

4.7 **Late Return of Equipment:** If the Customer returns the Plant to the Owner's premises after the end of the Hire Period, the Customer will be charged a minimum of an additional half day or an additional full day hire, depending upon the time of return. The Customer will remain liable to be charged for the Plant until it is returned to the Owner. Rental ending on Friday must be returned by 3pm Tuesday, rental ending on Monday must be received by 2pm Wednesday or additional rental charges will apply.

4.8 **Early Return of Equipment:** If the Customer wants to return the Plant before the end of the Hire Period, the Customer will remain liable for all hire and other charges payable to the Owner for the entire Hire Period.

The Owner may, at its absolute discretion, accept return of the Plant, and if it does so, may:

- (a) attempt to re-hire the Plant, in which case the Customer will be liable for those hire and other charges payable up until the date of the commencement of the re-hire or until the end of the Hire Period, whichever is earlier and
- (b) revise the hire charges payable by the Customer from the start of the Hire Period to account for the reduction to the Hire Period.

- 4.9 **Security Deposit:** The Customer is required to pay a security deposit for rental of Plant prior to or on receipt of the Plant.
- (a) Security amount is determined by the hire period of the Plant
 - (b) Cheque payment must be cleared or direct deposit received prior to delivery or receipt of Plant.
 - (c) Payment of security deposit by credit card will incur an additional fee.
- 4.10 **Payment Due Date:** The Customer is required to pay all fees, charges and costs that may become due and payable under the Hire Agreement within 14 days from invoice date or as stated in quotation with the exclusion of the security deposit which is subject to clause 4.11
- 4.11 **Late Payment:** If the Customer does not pay the amount of the Hire Agreement invoice by the payment due date, a late payment fee of 2% per month, compounding monthly, may be imposed. In addition, without limiting clause 9.4 the Customer will be liable to indemnify the Owner for all expenses incurred by the Owner in recovering any amounts which the Customer fails to pay by the payment due date (including any commission payable to any commercial or mercantile agents and legal costs).
- 4.12 **Offset:** The Owner may set-off against any credit owed to the Customer any amount owing by the Customer to the Owner.

5. Customer's Hire Obligations

- 5.1 **Possession and Use by Customer:** The Hire Agreement is personal to the Customer and the Customer will not allow nor authorise any person or entity to use, re-hire or have possession of the Plant at any time during the Hire Period.
- 5.2 **Suitability:** The Customer agrees that before accepting the Plant it has satisfied itself as to the suitability, condition and fitness for purpose of the Plant, Subject to clause 9.2 the Owner gives no warranty that the plant is suitable for the Customer's purpose.
- 5.3 **Operation of Equipment:** The Customer warrants that at all times it will:
- (a) operate the Plant safely, strictly in accordance with all laws, only for its intended use and in accordance with the manufacturer's instructions;
 - (b) ensure persons operating or erecting the Plant are suitably instructed / trained in its safe and proper use and where necessary hold a current Certificate of Competency and be licensed to use it;
 - (c) return the Plant to the Owner in the same good condition it was when the Customer received it, ordinary fair wear and tear excluded;
 - (d) display, maintain all safety signs and instructions (as required by law), and ensure that all instructions and signs are observed by operators of the Plant;
 - (e) ensure all persons operating the Plant wear suitable clothing and protective equipment as required or recommended by the manufacturer or by the Owner;
 - (f) ensure that no person operating the Plant are under the influence of drugs or alcohol;
 - (g) conduct a job safety analysis prior to using the Plant at a site;
 - (h) accept responsibility for the safe keeping an insuring the Plant during the Hire Period;
 - (i) ensure that no person operating the Plant makes copies of the stored data without expressed written permission of the Owner; or as part of the rental agreement with the authorised Company representative designated as the Customer.
 - (j) all work in accordance with the workplace surveillance act 2005.
- 5.4 **Operator:** If the Owner supplies an operator to operate the Plant ("Operator"), the Operator will be under the sole direction and control of the Customer and will during the Hire Period be deemed to be the employee of the Customer and the Customer will not allow any other person to operate the Plant without the Owner's prior written consent.
- 5.5 **Cleaning and Maintenance**
The customer agrees to pay a \$100 plus GST cleaning fee per PSC unit upon return to the Owner for cleaning of each unit in addition to rental charges.
- 5.6 **Safekeeping:** The Customer must ensure that during the Hire Period the Plant is stored safely and securely and is protected from theft, seizure or damage.
- 5.7 **Alteration and Identifying Marks:** The Customer must not alter, deface, remove or erase any notices, safety information, identifying mark, plate or number on the Plant.

- 5.8 **Inspection:** The Customer consents to the Owner inspecting the Plant from time to time during the Hire Period. In addition, the Customer may arrange a joint inspection with the Owner at the end of the Hire Period.
- 5.9 **Safe Loading and Transport:** The Customer will ensure the safe loading, securing and transporting of all Plant in accordance with all laws and manufacturer's guidelines. Customer and any transporting contractor will observe any safety directions advised by the Owner and/or manufacturer of the Plant for its loading and safe handling.
- 5.10 **Location:** The Customer must not remove the Plant from the State in which it was hired without the Owner's written consent. The Plant will be returned to the location in which the Plant was collected by the Customer or delivered by the Owner.
- 5.11 **Electrical Equipment re-testing and re-tagging:** Customer is responsible for arranging at the Customer's cost the re-testing and re-tagging of the electrical equipment by the manufacturer's agent in accordance with the manufacturer's instructions and the applicable Australian Standard(s) and Regulatory Authority requirements. The Owner is able to arrange, at the Customer's cost, for such re-testing and re-tagging of the electrical equipment. Any damage caused to the Plant resulting from incorrect testing will be at the Customer's cost.

6. Equipment Breakdown

- 6.1 **Obligations of Customer:** In the event that the Plant breaks down or becomes unsafe to use during the Hire Period the Customer will:
- (a) immediately stop using the Plant and notify the Owner;
 - (b) take all steps necessary to prevent injury occurring to persons or property as a result of the condition of the Plant;
 - (c) take all steps necessary to prevent any further damage to the Plant, and
 - (d) not repair or attempt to repair the Plant without the Owner's written consent.
- 6.2 **Obligations of Owner:** In the event that the Plant breaks down or becomes unsafe to use through no fault, negligence, recklessness or misuse by the Customer, the Owner will:
- (a) take all steps necessary to repair the Plant or provide suitable substitute Plant as soon as reasonably possible after being notified by the Customer;
 - (b) not impose a hire charge for that portion of the Hire Period for which the Plant was broken down or unsafe, nor the cost associated with any repair or replacement of the Plant, and
 - (c) not be liable for any expenditure, damages, loss or inconvenience incurred by the Customer arising from a breakdown of Plant, however so caused.

7. Lost, Stolen or Damaged Equipment

The Customer is responsible for the PSC and its camera's and accessories whilst on hire until the Plant is collected by the Owner, or returned to the Owner by the Customer. If the PSC or any of its parts is lost, stolen or damaged during the Hire Period the Customer will be liable for:

- (a) any costs incurred by the Owner in repairing or the new replacement cost of the Plant, and
- (b) any other costs whatsoever incurred by the Owner as a result of the loss, theft or damage to the Plant, including the continuation of hire charges when the damages were caused by the negligence or act or omission of the Customer, except where the Customer pays the Damage Waiver fee, in which case its liability is subject to the Damage Waiver clause below.

8. Indemnities and Exclusion of Liabilities

- 8.1 Subject to clause 9.2 and except as expressly provided to the contrary in the Hire Agreement all terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to the Owner's obligations under the Hire Agreement are excluded.
- 8.2 Where any Act of Parliament implies a term, condition or warranty in this Hire Agreement and that Act prohibits provisions in a contract excluding or modifying the application, exercise or liability under that

term, condition or warranty, such term, condition or warranty will be deemed to be included in this Agreement provided that the liability of the Owner for breach of the term, condition or warranty is limited to (at the Owner's election) the repair or replacement of the Plant or the supply of substitute Plant (or the cost of doing so) and in no event will any liability for damages be greater than the cost of the services being supplied under the Hire Agreement.

- 8.3 Subject to clause 8.2, the Owner will not be under any liability to the Customer for consequential loss or damage (including loss of actual or anticipated profits or revenue, economic loss of any kind or any loss suffered as a result of any claim or claims by third parties) in contract, tort (including negligence) under statute or otherwise from or in relation to the Plant of this Hire Agreement.
- 8.4 The Customer is liable for and indemnifies the Owner against all liability, claims, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on the higher of a full indemnity basis and a solicitor/client basis, determined without taxation, assessment or similar process and whether incurred or awarded against the Owner and any environmental loss, cost, damage or expense) arising from or incurred in connection with Customer's hire and use of the Plant or its breach of the Hire Agreement.
- 8.5 Each indemnity in this Hire Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, completion and expiration of this Hire Agreement. It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this Hire Agreement. The Customer must pay on demand any amount it must pay under an indemnity in this Hire Agreement.
- 8.6 For the purposes of clauses 8.3 to 8.5, use of Plant operated by a person supplied by the Owner will be use of the Plant by the Customer.

9. Terminations

- 9.1 The Owner may terminate the Hire Agreement immediately by notice to the Customer, if:
- (a) the Customer breaches any term of the Hire Agreement, or
 - (b) the Customer becomes bankrupt or insolvent, executes a personal insolvency agreement, enters into liquidation, administration, receivership or ceases to carry on business.
- 9.2 The Owner may terminate the Hire Agreement for any other reason by 24 hours notice.

The right of termination is in addition to any other rights under the Hire Agreement and does not exclude any right or remedy under law or equity or the survival of other terms under the Hire Agreement.

10. Recovery of Equipment

If the Customer is in breach of the Hire Agreement or if the Owner has terminated the Hire Agreement with the Customer pursuant to clause 9, the Owner may take all steps necessary (including legal action) to recover the Plant, including entering the Customer's premises to do so.

11. Miscellaneous

- 11.1 **Severability:** If any part of this agreement becomes void or unenforceable for any reason then that part will be severed with the intent that all the remaining parts will continue to be in full force and effect and be unaffected by the severance of any other part.
- 11.2 **Governing Law and Default Recovery:** The Hire Agreement is governed by the laws of the State or Territory of Australia where the Hire Agreement is entered into by the parties and each part submits to the exclusive jurisdiction of the courts of that State or Territory. The Customer will not object to the Owner using the jurisdiction on New South Wales for the recovery of any outstanding amount.
- 11.3 **Security of Obligations:** As security of obligations and liabilities of the Customer under the Hire Agreement, the Customer hereby charges for the due and punctual payment and performance of those held in any and all Real Property. Without limiting the generality of the charge in this clause, the Customer agrees, on request of the Owner, to execute any documents and do all things necessary required by the Owner to register a mortgage security over any Real property. The Customer will indemnify the Owner on an indemnity basis against all costs and expenses incurred by the Owner in

connection with the preparation and registration of such mortgage documents. The Customer also consents unconditionally to the Owner lodging a caveat or caveats noting its interest in any Real Property.

- 11.4 **Entire Agreement:** The Hire Agreement issued to the Customer, including these standard Conditions of Hire, comprises the entire agreement between the parties. No additional terms and conditions proposed by the Customer (including any terms contained in any purchase order provided by the Customer) apply to the hire of the Plant unless agreed in writing by the Owner.
- 11.5 **No Reliance:** The Customer acknowledges that neither the Owner or any person acting on the Owner's behalf has made any representation or other inducement to it to enter into the Hire Agreement and that it has not entered into the Hire Agreement in reliance on any representations or inducements (including in relation to the use of the Plant) except for those representations or inducements contained herein.
- 11.6 **Variation:** The Owner may at any time vary the Hire Agreement by giving the Customer 30 days written notice of its intention to do so. Any other variation of these terms and conditions must be agreed in writing by the Owner and the Customer.
- 11.7 **Privacy:**
- (a) The Owner may collect personal information about the Customer. The Owner's Privacy Officer can be contacted on (02) 4942 1797. The Owner may use the Customer's personal information to provide services to the Customer, to fulfil administrative functions associated with these services (for example assessment of credit worthiness), to enter into contracts with the Customer or third parties, and for marketing and client relationship purposes. If the Customer does not provide all information required by the Owner, the Owner will not be able to hire the Equipment or provide the associated services to the Customer. Generally the Customer has the right to access personal information the Owner holds about the Customer.
 - (b) The Customer consents to and authorises the Owner to use and disclose the Customer's personal information in accordance with clause 11.7(a).
- 11.8 **Notice to Customer:** Any document which by the Hire Agreement may be given by the Owner may be served or rendered by leaving it at or posting it to the address of the Customer as stated in the Hire Agreement or last notified by the Customer in writing to the Owner and will be deemed to have been served or rendered at the time of leaving or, if posted, on the business day following the day of postage and any notice may be signed by an officer, manager or solicitor or the Owner on behalf of the Customer.
- 11.9 **No Waiver:** No delay or omission to exercise any right, power or remedy accruing to the Owner upon any continuing breach or default under the hire agreement will impair any such right, power or remedy, nor will it be construed to be a waiver of any right of the Owner to take action or make a claim in respect of a continuing breach or default or to be acquiescence to it.
- 11.10 **Withdrawal of Credit Accommodation:** Any credit accommodation granted by the Owner to the Customer may be reviewed at any time without notice. Credit may be withdrawn for Customer failing to make payments or use the Plant in accordance with these Standard Conditions of Hire and a statement may be issued at the time requiring payment within 7 days of any amount due and owing.
- 11.11 **Authority of Customer:** The person signing the Hire Agreement for an on behalf of the Customer hereby covenants with the Owner that he or she has the authority of the Customer to make the Agreement on the Customer's behalf and is empowered by the Customer to bind the Customer to the Agreement and hereby indemnifies the Owner against all losses, cost and claims incurred by the Owner arising out of the person so signing the Agreement not in fact having such power / authority.
- 11.12 **Previous Editions:** This edition of the Standard Conditions of Hire replaces and supersedes all previously issued Conditions of Sale and Hire by the Owner.
- 11.13 **Time of the Essence:** Time is to be of the essence of all obligations of the Customer in the Hire Agreement.
- 11.14 **Right of Refusal to Hire:** The Owner is in no way obligated to hire any Plant to the Customer and may refuse to hire Plant to a customer at its absolute discretion, including but not limited to, if the Customer fails to provide adequate identification, the Customer does not pay the security deposit in accordance with clause 4.11 or if in the opinion of the Owner, the Customer's safety is put at risk by providing them with such Plant.