



TERMS AND CONDITIONS OF TRADE

ALL EVENTS HIRE CLOSE CORPORATION

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Fabrication, Staging & Event Co-ordination

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AEH TERMS AND CONDITIONS OF TRADE

1. AGREEMENT OF HIRE

- 1.1. An order from the Customer shall constitute an offer to hire the goods specified in the order (the "goods") subject to these terms and conditions ("Conditions").
- 1.2. An agreement of hire of the goods shall come into being upon acceptance of the order by AEH.
- 1.3. The period of the hire contract ("hire period") commences on the sooner of the date of delivery of the goods alternatively, if the goods have been reserved for a particular date, the reservation date ("commencement date") and terminates on the return date (the "termination date").
- 1.4. AEH reserves the right to reject, in its sole discretion, any written order received.
- 1.5. The contract price (in each instance) shall be the price stipulated in AEH's quotation or acceptance of order notification; failing either of these: AEH's prevailing standard price list for the goods as at the date of acceptance of the order. The Customer hereby:-
 - 1.5.1 acknowledges that it is the Customer's responsibility to familiarize itself with AEH's pricing lists (as amended from time to time); and
 - 1.5.2 warrants to AEH that, when placing an order it is aware of and has familiarized itself with AEH's prevailing price list;
 - 1.5.3 acknowledges that in the event of the Customer ordering goods which will have to be sub-contracted/hired in by AEH, said goods so sub-contracted/hired in shall be charged by AEH to the Customer at the cost to AEH plus the handling fee as stipulated in the AEH price lists as amended from time to time.
- 1.6. Notwithstanding anything to the contrary contained in these Conditions, the Hirer shall be liable to pay the hire charges from the commencement date up until the date upon which the goods are returned to AEH – either by delivery to AEH's distribution centre, alternatively collection by AEH.

2. DELIVERY/RISK/POSSESSION

- 2.1. It is the Customer's obligation to take delivery and possession of the goods from AEH's distribution centre situate at corner Yew and Aubrey Streets, Salt River.
- 2.2. Should the Customer require AEH to arrange for the transportation of the goods:-
 - 2.2.1 the Customer shall relay such request to AEH in writing;
 - 2.2.2 provide AEH with a physical delivery address within the boundaries of the Western Cape (alternatively such address outside the boundaries of the Western Cape, as maybe agreed between the parties in writing) and ensure that the Customer and/or its authorised representative is at the delivery address at the designated time in order to receive the goods;
 - 2.2.3 the Customer shall be liable to pay AEH's delivery charges in the amount stipulated in the quotation and/or order, failing these being stipulated - AEH's prevailing standing price list for delivery charges as at the date of the order shall apply.
- 2.3. All risk in and to the goods shall pass from AEH to the Customer on collection by the Customer or delivery by AEH (as the case may be) and the Customer is obliged to return the goods to AEH in the same condition in which these were received, fair wear and tear excepted.
- 2.4. When goods are delivered by AEH to the Customer, the signature of the Customer (or its authorised representative) on the delivery note shall – subject to clauses 5.2 and 5.3, serve as conclusive proof that the goods were received in good order and without defect.

- 2.5 If the Customer/its authorised representative is not present at the delivery address at the designated time and date, AEH reserves their right to either:-
- 2.5.1 deliver the goods at the delivery address (in accordance with the provisions of clause 2.6 below), or;
 - 2.5.2 refrain from delivering the goods – in which event it shall be the Customer's obligation to arrange an alternative date and time for delivery and in which event the Customer shall be liable for the additional delivery charges.
- 2.6 When goods are delivered by AEH in the absence of the Customer or its representative, the Hirer delivery note shall be forwarded to the Hirer's domicilium address and said notice shall be deemed to be conclusive proof of delivery of the goods listed therein in good working order, without defect (subject only to the provisions of clauses 5.2 and 5.3).
3. OWNERSHIP
- 3.1 Ownership in and to goods hired/supplied by AEH to the Customer shall remain vested in AEH at all times.
 - 3.2 AEH reserves the right to inform the Landlord of the premises on which the Customer keeps the goods of AEH's ownership of the goods and the Customer agrees and undertakes to furnish AEH, on demand, with such information as AEH may reasonably require in order to notify the Landlord aforesaid.
4. DEPOSIT/PAYMENT
- 4.1 AEH may, on acceptance of the order, call for the payment of a damage deposit in an amount determined by AEH and the Customer shall be liable to effect payment of said deposit prior to delivery of the goods.
 - 4.2 In the event that the goods are returned in a damaged condition, AEH shall be entitled (without derogating from any of its other rights in terms of these Conditions) to deduct the fair and reasonable cost of replacing and/or repairing the goods from the damage deposit so held provided that in the event that the deposit is insufficient to cover these costs, the Customer shall be liable to pay the difference upon demand.
 - 4.3 AEH shall be entitled to retain the remainder of the damage deposit until such time as the hire charges have been paid in full. Should the Customer fail or neglect or refuse to pay all or part of the hire charges claimed, AEH may, in its sole discretion, allocate the deposit towards payment of the outstanding hire charges. Any excess shall be refunded to the Customer.
 - 4.4 Unless otherwise agreed in writing between AEH and the Customer, all hire contracts shall be for cash and the hire contract price shall be payable in advance prior to collection of the goods.
 - 4.5 All amounts payable to AEH by the Customer in terms of these Conditions:-
 - 4.5.1 shall be paid in cash at AEH's premises or by electronic bank transfer into AEH's banking account or on by such alternative means as may be agreed in writing from time to time;
 - 4.5.2 must be paid in South African rands on the date payment falls due to AEH;
 - 4.5.3 shall be free and clear of all deduction, counterclaims, set-off, or withholding – for any reason whatsoever.
5. CONDITION OF GOODS RECEIVED
- 5.1 The Customer shall be obliged, upon collection of the goods from AEH's premises to inspect the goods and to give AEH written notice of any complaint or defect in respect of any goods hired
 - 5.2 In circumstances where the goods are delivered to the Customer, the Customer shall be obliged to inspect the goods and to give AEH written notice, upon delivery, of any complaint or defect in respect of any goods hired.
 - 5.3 In the event of the Customer failing to deliver notification to AEH (as contemplated in Clauses 5.1 and/or 5.2 above) within the above stipulated time periods, the goods shall be deemed to have been received in good

condition and without defect and the Customer is hereby debarred from claiming against AEH any relief whatsoever arising from said defects.

5.4 Notwithstanding any agreement between AEH and the Customer relating to the granting of credit, the damage charges/cost of repairs to the goods shall be payable by the Customer upon demand.

6. STAGING AND EVENT CO-ORDINATION

6.1 The specifications of the goods and services required, in relation to the staging and co-ordination of a specified event (the "event"), shall comprise the goods and services specified in AEH's quotation and/or the order, as the case may be (hereinafter referred to as the "Event Services").

6.2 Unless otherwise agreed in writing, Event Services may only be reserved upon receipt of:-

6.2.1 the signed quotation and/or signed Customer order, and

6.2.2 and the requisite deposit stipulated therein.

6.3 Unless otherwise agreed in writing, Event Services:-

6.3.1 will attract a 60% deposit, and;

6.3.2 are payable in cash upon final set-up and establishment of the event.

6.4 All risk in and to the goods supplied, as part of the Event Services, shall pass from AEH to the Customer upon final set-up.

6.5 The Customer may, at any time prior to seventy two hours before the event, give AEH notice of a variation in respect of goods required, final numbers, set-up specifications and clearing-up dates, in which event:-

6.5.1 AEH shall use its best endeavours to accommodate the Customer's revised requirements;

6.5.2 AEH shall as soon as reasonably possible thereafter, furnish the Customer with its revised pricing;

6.5.3 AEH reserves the right to call for an increased deposit (in the event that the specification variation results in a price increase).

6.6 The Customer is required to notify AEH, three days prior to the event, whether or not it will require after hours clearing.

6.7 The Customer acknowledges that it has familiarized itself with AEH's rates for after hours clearing.

6.8 In the event of the cancellation of an event:-

6.8.1 more than seventy two hours prior to the event, AEH shall be entitled to a cancellation fee of 25% of the quoted price;

6.8.2 less than seventy two hours before the event, AEH shall be entitled to a cancellation fee of 40% of the quoted price;

6.8.3 less than twenty four hours prior to the event, AEH shall be entitled to 100% of the quoted price.

6.9 The Customer acknowledges that all patents, trade marks and copyrights relative to the goods and the staging of the event vest in AEH and the Customer acknowledges that it may not directly or indirectly impinge on AEH's intellectual proprietary rights aforesaid.

7. CREDIT DETAILS

The Customer hereby acknowledges and agrees that AEH may from time to time:

7.1 perform a search on the Customer's credit record with one or more of the Customer's other creditors and with one or more credit bureau when assessing the Customer's application for credit;

7.2 monitor the Customer's payment behavior by searching the Customer's record at one or more of the credit bureau;

- 7.3 use information and data obtained from the credit bureau in respect of the Customer's credit applications;
- 7.4 record the existence and manner of conduct of the Customer's account with any credit bureau.

8. APPROVED LOCATIONS/ACCESS TO GOODS/EXPEDITING RETURN OF GOODS

- 8.1 AEH reserves the right to resile from the contract of hire and claim the immediate return of the goods and/or termination of the Event Services if, in the reasonable opinion of AEH, the location at which the goods will be kept and/or the venue of the event is not suitable for the use of the goods or the purpose for which they are intended and/or the conduct of the event – as the case may be.
- 8.2 The Customer hereby grants AEH the right to access any location and/or premises where the goods may be kept during the hire period and/or where the event may be held; on no less than one hour's telephonic/written notice from AEH to the Customer to that effect, for the purposes of satisfying itself that the Customer is in compliance with the terms of these Conditions and re-possessing the goods, should AEH be lawfully entitled to do so.
- 8.3 The Customer hereby accepts liability to pay AEH all costs and charges due to and/or damages suffered by AEH due to the failure of the Customer to return the goods on the termination date including, without limiting the generality of the foregoing:-
 - 8.3.1 all amounts which would have been payable by the Customer if the rental period had been extended, and;
 - 8.3.2 all or any consequential loss which AEH may have suffered as a consequence.

9. DAMAGE TO GOODS

- 9.1 The Customer is liable to return the goods to AEH in the condition in which they were hired (either at date of collection or delivery as the case may be), fair wear and tear excepted.
- 9.2 The Customer shall be liable to pay AEH, upon demand, the fair and reasonable costs of replacement and/or repair of the goods, should the goods become damaged, lost or destroyed whilst on risk with the Customer.

10. INDEMNITY / WAIVER OF CLAIM

- 10.1 The Customer hereby indemnifies and holds harmless AEH against all or any claim made by any person whomsoever, howsoever arising, for injury to persons and/or damage to property caused by and/or in connection with and/or arising out of and/or relating to the goods and/or relating to the hire of the goods and/or the holding of the event and/or relating to the conduct of the event and/or the rendering of the Event Services notwithstanding that said claim may arise as a consequence of AEH's negligence. The indemnity:-
 - 10.1.1 extends to include all legal costs and charges associated with defending said proceedings;
 - 10.1.2 does not apply to any claims arising as a result of the willful conduct on the part of AEH or its agents.
- 10.2 The Customer hereby waives any claim that he may have against AEH and hereby indemnifies AEH against all or any claim which may be made arising from any loss or damage suffered by the Customer and/or any other party arising out of the late and/or non-delivery of the goods and/or mechanical breakdown of the goods and/or failure to stage the event timeously or at all, the Customer hereby holding harmless AEH against all such claims whether or not such claims arise a consequence of the negligence of AEH or its agents provided that said indemnity and waiver does not apply in relation to willful misconduct on the part of AEH.

11. BREACH

- 11.1 In the event of the Customer failing to make payment of any amount payable to AEH in terms of these Conditions on due date or at all, then:-
 - 11.1.1 the amount so payable shall attract interest at a rate equivalent to the prime overdraft rate charged by First National Bank, to its preferred corporate Customers in respect of unsecured overdrawn current

accounts ("prime") plus 5%, alternatively at the rate of interest prescribed in accordance with the Prescribed Rate of Interest Act 55 of 1975, (whichever is the greater) calculated from due date up until date of payment, compounded monthly, and;

11.1.2 all or any other amounts payable by the Customer to AEH shall become immediately due and payable, notwithstanding the fact that the due date of payment has not yet arrived, and;

11.1.3 AEH shall be entitled, but not obliged, to cancel all existing hire contracts with the Customer, without notice to the Customer, and shall be entitled to the immediate return of all goods on hire to the Customer.

11.2 In the event of any other breach (other than a breach contemplated in Clause 11.1 above and subject to anything to the contrary contained in these Conditions) AEH shall be entitled but not obliged to give the Customer written notice calling upon it to remedy its breach within seventy two hours of delivery of the notice failing which AEH shall be entitled to immediately and without further notice:-

11.2.1 sue for specific performance and such damages as it may have suffered and/or;

11.2.2 cancel all hire contracts in place with the Customer and claim such damages as it may have suffered including consequential loss.

12. GENERAL PROVISIONS

12.1 FORMATION OF HIRE CONTRACT

A hire contract shall be deemed to have been entered into between AEH and the Customer, on the terms and conditions contained herein upon receipt, by AEH, of the quotation and/or order duly signed by the Customer.

12.2 PIECEMEAL RETURN OF GOODS

The parties contemplate that, from time to time, a hire contract maybe varied by the piecemeal return of goods on or after the termination date. In the event of the Customer returning only a portion of the goods hired at the termination date, then, with effect from the date of the return of the goods, a new contract of hire for the remaining goods shall be deemed to have come into existence (on these terms and conditions) and at the price stipulated in the initial contract of hire, alternatively, if no price has been stipulated, at AEH's prevailing price list. In said circumstances the hire period shall be deemed to be extended up until the date upon which the Customer returns the goods, alternatively the date upon which AEH demands the return thereof, whichever is the sooner.

12.3 NON-VARIATION

No agreement varying, altering or cancelling the terms of the Conditions shall be valid and binding on the parties unless reduced to writing and signed by the parties.

12.4 NO CESSION

The Customer may not part with possession of the goods and/or cede, delegate, assign, transfer or sub-contract any of its rights or obligations in terms of the hire contract without prior written consent of AEH.

12.5 GOVERNING LAW

The hire contract shall be governed by and construed according to the law of South Africa.

12.6 INTERPRETATION

Unless inconsistent with the context, words signifying any one gender will include the others, words singular will include the plural and vice versa and words signifying natural persons will include artificial persons and vice versa.

For the purposes of these Conditions:

12.6.1 "**AEH**" means ALL EVENTS HIRE CC;

12.6.2 "**business day**" means any day other than a Saturday, Sunday or South African Public Holiday;

12.6.3 "**Conditions**" means these conditions comprising Parts A and B read with the quotation and/or order as the case may be;

12.6.4 "**Customer**" means the Customer whose details appear from Part A hereinabove;

- 12.6.5 “**hire contract**” means a reference to each and every contract of hire of goods and/or Event Services concluded in terms of these Conditions;
- 12.6.6 “**quotation**”/”**order**” means AEH’s quotation submitted to the Customer, duly signed by the Customer and/or AEH’s order form duly completed and signed by the Customer;
- 12.6.7 “**Surety/authorized signatory**” means the natural person(s) described in Part A and who sign these Conditions on behalf of the Customer – who, in so doing signs in his/her representative capacity aforesaid and in his/her personal capacity as surety and co-principal debtor;
- 12.6.8 Whenever any number of days is prescribed, it excludes the first and includes the last day unless the last day falls on a Saturday, Sunday or South African Public Holiday in which case the last day will be the next succeeding business day;

12.7 LEGAL COSTS

In the event of AEH having recourse to legal proceedings to enforce any of its rights under these Conditions and further in the event of AEH being substantially successful in said legal proceedings, the Customer shall be liable to bear AEH’s legal costs so incurred on the scale as between attorney and own client calculated at double the prevailing High Court tariff as amended from time to time (notwithstanding the fact that legal proceedings may be sued out of the Magistrate’s Court) and in respect whereof the Customer does hereby consent to the taxation of any bill of costs drawn in terms of these Conditions before the Taxing Master of the High Court and the appropriate office of the Law Society having jurisdiction over the parties; alternatively such scale of costs as may be awarded by the Court.

12.8 JURISDICTION

The Customer hereby consents to the jurisdiction of the Magistrate’s Court having jurisdiction in terms of Section 28 of the Magistrate’s Court Act 32 of 1944 notwithstanding the fact that the amount claimed/in dispute may exceed the jurisdictional limits of the Magistrate’s Court as prescribed from time to time.

12.9. DOMICILIUM AND NOTICES

- 12.9.1 All notices by either party shall be in writing and addressed to the other party’s domicilium address as defined hereunder.
- 12.9.2 The Customer chooses as its domicilium address the physical, telefax and e-mail address as stipulated in Part A above, for the service of all notices and process arising out of this agreement.
- 12.9.3 AEH hereby selects, as its *domicilium citandi et executandi* the physical, postal, telefax and e-mail addresses contained on the first page of these Conditions.
- 12.9.4 Any notices to a party shall be addressed to his domicilium aforesaid and either sent by prepaid registered post, delivered by hand or communicated by e-mail or facsimile.
- 12.9.5 In the case of any notice:
- (a) sent by prepaid registered post, it shall be deemed to have been received, unless the contrary is proved, on the 4th (fourth) business day after posting;
 - (b) delivered by hand, it shall be deemed to have been received, unless the contrary is proved, on the date of delivery, provided such date is a business day or otherwise on the next following business day;
 - (c) sent by e-mail or facsimile, it shall be deemed to have been received, unless the contrary is proved, on the day of transmission by e-mail or facsimile as the case may be, provided such date is a business day.

12.10 ALLOCATION

All payments received from the Customer shall be allocated towards payment of the longest outstanding hire contract, notwithstanding any specific payment instructions from the Customer.

12.11 AEH's WARRANTY

AEH warrants to the Customer that all goods will, as at the date of delivery, meet the general accepted quality levels for the goods in question. This is the sole warranty given by AEH and to the extent permitted by law all other warranties, whether express or implied are excluded.

12.12 AEH'S LIABILITY

Unless otherwise agreed to in writing by the parties and subject to this clause 12.12 the Customer's exclusive remedy and AEH's exclusive liability for any claim resulting from the non-conformity of any goods hired by AEH to the Customer under these Conditions or from any breach of the warranty given by AEH in clause 12.11 shall be limited to, at AEH's election:

12.12.1 the resupply of the goods; or

12.12.2 a refund of the hire charges.

In no event will AEH be liable for any incidental or consequential loss or damage (including but not limited to economic loss or loss of profits) suffered or incurred by the Customer as a result of or in connection with any breach by AEH of these Conditions or any delict (including but not limited to, strict liability or negligence but excluding intentional harm) committed by AEH in connection with these Conditions.

12.13 WARRANTIES AND REPRESENTATIONS

These Conditions constitute the sole agreement between the parties relative to the hire of the goods/conduct of the Event Services and AEH shall not be liable to the Customer in respect of any oral representations made at any time.

12.14 SEVERABILITY

In the event of any one or more of the provisions of these Conditions being void or unenforceable in law for any reason whatsoever, said invalid provision(s) shall be struck from these Conditions without detracting from the validity of the remaining terms of the Conditions unaffected thereby.

13. DEED OF SURETYSHIP

13.1 By his/her signature hereto, the authorized signatory (whose details appear in Clause 12 Part A) hereby binds himself / herself in favor of AEH or its successors in title as surety and co-principal debtor *in solidum*, jointly and severally with the Customer and with other signatories hereto for the due and punctual payment of all amounts owing by the Customer to AEH from time to time, and for the due and punctual performance by the Customer of all its obligations to AEH, contained in this Contract.

13.2 The surety hereby expressly renounces and waives the benefits of excussion, division and cession of action, and no value received, the meaning and effect whereof the surety declares himself/herself to be fully acquainted with.

13.3 The surety hereby agrees and acknowledges that his/her obligations herein contained shall continue and remain in force and effect for so long as the Customer continues trading with AEH and/or remains indebted to AEH for any amount whatsoever arising out of this agreement and/or until the surety has been released from his or her obligations by AEH, by written notice to that effect.

13.4 The surety hereby appoints the address contained in Clause 20, Part A as his/her *domicilium citandi et executandi* for all purposes in terms hereof (and on the further terms and conditions contained in Part B hereto).