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TERMS OF HIRE

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PART A: OVERVIEW OF THESE TERMS

These Terms of Hire apply to all Equipment that we hire to you. Please refer to our separate Terms of Trade relating to products or services, which will apply if we supply our products or services to you.

At Safesmart Rentals Limited ensuring our Terms are transparent and easy to understand is important to us. If you have any questions or are unsure about anything, please contact us.

To make these Terms easy to use, we:

(a) have set out a '**Dictionary**' in Part K, which explains the specific meaning, for the purposes of these Terms, of the capitalised words used in these Terms; and

(b) have included **summaries / outlines** for each Part in blue boxes – these are intended for guidance only and do not replace any of the terms in these Terms.

1. Introduction

1.1 These Terms set out all of the terms and conditions that apply to all Equipment that we hire to you.

1.2 Any other terms and conditions will not apply unless expressly agreed in writing by us for a particular Order and/or specific Equipment.

1.3 We may update these Terms on notice to you. Our updated Terms will apply to all Equipment you order for hire after we have notified you that we have updated our Terms.

PART B: ORDERS AND DELIVERY

Part B sets out details about placing Orders to hire Equipment and the Delivery of the Equipment. It also sets out the process for cancelling an Order.

2. Order process

2.1 You may order Equipment from us in accordance with our order processes that we advise to you at any time.

2.2 All Orders are subject to acceptance by us. We may accept an Order (in whole or in part) by issuing an invoice for the applicable Equipment, Delivering Equipment (in accordance with clause 3.1) or otherwise confirming the order in writing.

2.3 We are under no obligation to enquire as to the authority of any person placing an Order on your behalf.

2.4 Before making an Order, you must satisfy yourself that the relevant Equipment is suitable for your purposes.

2.5 You may request Variations to Orders. However, acceptance is at our discretion and is subject to our approval in writing, in accordance with clause 5.

3. Delivery of Equipment

3.1 Delivery of Equipment occurs when:

(a) you (or your nominated Representative) take possession of the Equipment at our premises; or

(b) we deliver the Equipment to your nominated address (as specified in the relevant Order, or any other location agreed with you).

3.2 We will use reasonable efforts to Deliver Equipment on the Delivery Date specified in the relevant Order. However, unless expressly agreed otherwise, the Delivery Date is indicative only.

3.3 Subject to clause 20, if the delivery location is at your premises, you must provide our Representatives with suitable access to your premises during normal business hours, together with any assistance reasonably required by our Representatives to Deliver Equipment.

3.4 We may deliver Orders in instalments (if applicable and unless agreed otherwise).

4. Cancellation

4.1 Either party may cancel an Order by written notice if the other party:

(a) commits a material breach of these Terms which is not remedied within 20 Business Days of written notice of the breach from the other party; or

(b) suffers an Insolvency Event.

4.2 If we are unable to Deliver Equipment specified on an Order, due to reasons beyond our reasonable control, we may cancel the Order (in whole or in respect of any specific Equipment) by giving written notice to you. We will repay you any amount you have paid to us in advance for the relevant Equipment. We will not be liable for any loss or damage arising from such cancellation.

4.3 You may cancel delivery of the Equipment the sooner of:

(a) by written notice served within 24 hours of placement of the Order; or

(b) the delivery of the Equipment.

5. Variations

5.1 We may require variations to an Order if we identify factors that affect the provision of the Equipment to you which could not reasonably have been foreseen by us. Any such variations will be submitted to you for approval (**Variation Notice**). You must respond to a Variation Notice as soon as possible (and within 24 hours). We may suspend or delay the provision of the Equipment pending your approval.

5.2 If you do not respond to a Variation Notice within 24 hours, we may assume that you have accepted the applicable variations.

5.3 If you notify us, within 24 hours of a Variation Notice, that you do not accept the variations, we will cancel the Order (or, if applicable, the remaining Equipment to be provided on hire under the Order) on notice to you. We will repay you any amount you have paid to us in advance for the Equipment hire that we do not provide as a result of such cancellation (less any unrecoverable costs that we have incurred).

PART C: EQUIPMENT HIRE

Part C sets out the terms relating to the Hire Period and what happens if there is a defect in or breakdown of Equipment.

6. Hire Period

6.1 The Hire Period for Equipment is the longer of:

(a) the time from Delivery of Equipment to you until the return of Equipment to our premises (or the collection of Equipment by us, if agreed) (in which case, the date of return or collection will be treated as a full day's hire); or

(b) the Hire Period that we have agreed with you (including on the Order, if applicable), subject to any termination rights that we have agreed with you.

6.2 You must allow us to inspect Equipment on reasonable notice to you at any time during the Hire Period.

6.3 If we have not agreed a specific Hire Period with you, either party may terminate the Hire Period on 14 days' notice to the other party.

6.4 The minimum Hire Period may not be reduced without prior agreement by us and in such event, you will pay a fee equal to the remainder of the initial period. If the Hire Period is extended further, then the Hire Charges may continue at the same amount until such time as the Equipment is returned or collected.

6.5 If your Hire Period expires or is terminated, you must promptly pay us for all lost hire fees we would have otherwise been entitled to for Equipment under these Terms, if you have agreed a specific Hire Period or minimum Hire Period with us.

6.6 Early return and restocking fees may apply.

7. Defects and break downs

7.1 You must inspect Equipment on the date of Delivery (or, if inspection on that date is not reasonably practicable, on the date of first use) and promptly notify us of any defect, damage or other issues with Equipment on Delivery.

7.2 You must promptly notify us of any mechanical breakdown, damage or accident relating to Equipment during the Hire Period

7.3 Upon request from us, you must immediately stop using Equipment and allow us to inspect, or return to us, Equipment that is the subject of a notice in accordance with clauses 7.1 and 7.2.

PART D: HIRE RATE

Part D sets out how the Hire Charges for Equipment is calculated.

8. Hire Charges

8.1 The Hire Charges for Equipment will be the Hire Charges that we have quoted for Equipment (subject to clause 8.4).

8.2 Unless otherwise stated, the Hire Charges does not include GST.

8.3 We may charge you for freight, insurance, installation, disbursements and any applicable taxes, duties and levies, in addition to the Hire Charges (unless expressly agreed otherwise, including in the applicable quotation).

8.4 Where we provide a quotation, proposal or estimate:

(a) unless otherwise specified, the quotation, proposal or estimate is valid for 30 days from the date of issue and may be subject to such further conditions as are expressly set out in the quote, proposal or estimate;

(b) we may withdraw a quotation or proposal at any time on notice to you before you accept it or before we accept the applicable Order; and

(c) the quotation, proposal or estimate will be exclusive of any applicable additional amounts referred to in clause 8.3 (unless expressly stated otherwise).

8.5 If Equipment breaks down, the Hire Charges will not be payable during the time the relevant Equipment is not working (provided that you have complied with clauses 7.1 or 7.2 (as applicable) and the break down is not due to your negligence, misuse or breach

of these Terms). No other allowance whatsoever will be made for time during which Equipment is not in use.

PART E: YOUR RESPONSIBILITIES

Part E sets out your responsibilities in relation to Equipment and our rights where you breach your responsibilities.

9. Your responsibilities and consequences of a breach

9.1 You must comply (and procure that your Representatives comply) with the responsibilities set out in clause 10 and you acknowledge that, if you fail to do so, the consequences set out in clause 11 will apply (in addition to any other rights that we may have).

10. Your responsibilities

10.1 You must:
- (a) keep Equipment in your own possession and control;
- (b) take all reasonable care in handling (including parking, if applicable) Equipment;
- (c) securely store Equipment when not in use;
- (d) maintain Equipment in accordance with our directions;
- (e) follow any instructions, recommended uses, applications and installation methods for Equipment and observe any cautions and/or warnings;
- (f) ensure that (to the extent applicable to Equipment), all persons operating Equipment are:
  - (i) suitably instructed in its safe and proper use;
  - (ii) fully licensed to operate the relevant Equipment (and you must provide evidence of the same to us upon request); and
  - (iii) not under the influence of alcohol or any drug that may impair their ability to operate the relevant Equipment.
- (g) notify us immediately by telephone of the full circumstances of any breakdown or accident in connection with the Equipment. You are not absolved from the requirements to safeguard the Equipment by giving such notification;
- (h) ensure all overhead power likely to cause a hazard or adversely affect the installation of Equipment is turned off prior to the installation of the Equipment;
- (i) ensure that no digging or excavation work is performed near or under the Equipment during the installation or once the Equipment has been installed;
- (j) indemnify and hold harmless us in respect of all claims arising out of your use of the Equipment;
- (k) return the Equipment to us at the end of the Hire Period, in the same order and condition as at the commencement of the Hire Period (fair wear and tear expected), complete with all parts and accessories and in a reasonably clean state.

10.2 You must not:
- (a) move the Equipment once placed in position by us, except with the express approval of us. Any relocation of the Equipment shall attract an additional fee, and all risk for the performance of such shall rest with you;
- (b) on hire the Equipment without our consent; or
- (c) alter or make any additions to the Equipment including but without limitation altering, make any additions to, defacing or erasing any identifying mark, stickers, paint, plate or number on or in the Equipment or in any other manner interfere with the Equipment; or
- (d) exceed the recommended or legal load and capacity limits of the Equipment; or
- (e) fix any of the Equipment in such a manner as to make it legally a fixture forming part of any freehold.

10.3 You must also:
- (a) insure Equipment (in accordance with clause 18);
- (b) comply with your health and safety obligations (in accordance with clause 20; and
- (c) promptly notify us of any issues relating to Equipment (in accordance with clause 7).

11. Consequences of a breach

11.1 If Equipment is:
- (a) destroyed, or **written off** during the Hire Period, or not returned to us, you must reimburse us for the replacement cost of the relevant Equipment (as notified by us to you, with such evidence as you may reasonably request);
- (b) **not returned** to us with all parts and accessories, sub-clause (a) above will apply in respect of the relevant parts and accessories;
- (c) **damaged** during the Hire Period (for clarity, excluding fair wear and tear), you must reimburse us for all costs of repairing the damage; or
- (d) not returned to us clean and in good order, you must reimburse us for all cleaning costs.

11.2 In any of the scenarios outlined above, on notice from us, you must reimburse us for lost hire fees we would have otherwise been entitled to for the relevant Equipment, under this, or any other hire agreement.

11.3 If we make a claim under our insurance in relation to damage to or destruction of Equipment during the Hire Period, we will not claim the same amount from you but you must reimburse us for any applicable excess.

11.4 If you do not promptly return Equipment at the end of the Hire Period (or, on request, if an Insolvency Event occurs), we or our Representatives may enter any premises where Equipment may be stored to take possession of the relevant Equipment.

PART F: PAYMENT TERMS

Under these Terms, we may hire Equipment to you on credit. It is very important to us that you pay us in full by the due date for payment. The following clauses provide additional protections for us to reflect that arrangement, including terms that will apply if there are any delays or disputes relating to payments.

12. Payment

12.1 You must pay us all Amounts Owing to our bank account (notified to you and updated at any time) or any other payment method that we agree with you.

12.2 Payment shall be:
- (a) before delivery of the Equipment; or
- (b) by instalments as specified in the Order; or
- (c) as indicated on our invoice; or
- (d) 7 days after invoice date; or
- (e) for approved credit account holders, 20 days of the month following; and
- (f) in full without deduction, withholding, set-off or counterclaim.

12.3 If you have any dispute relating to an invoice issued by us, you:
- (a) must notify us of that dispute in writing within 5 days from the date of invoice (after that period, unless there is a manifest error, you will be deemed to have accepted the invoice); and
- (b) will only withhold payment of the amount in dispute and will, upon resolution of any dispute, immediately pay the balance (if any) due to us.

12.4 We and you each agree to promptly deal with any disputed invoices and, where possible, to resolve disputes before the due date for payment.

13. Credit terms and repayment obligations

13.1 The hire of Equipment to you on credit is subject to our prior approval. We may use the services of credit reporters and debt collection agencies (in accordance with clause 21.2).

13.2 You must notify us immediately:
- (a) if you suffer an Insolvency Event. Any Amount Owing will, whether or not due for payment, immediately become due and payable if an Insolvency Event occurs; or
- (b) if you are a company and there is a material change in your effective management or ownership.

14. Deposit and guarantee

14.1 We may require that you pay us in advance, or pay a deposit, or provide a guarantee or other security, before we hire Equipment to you, as security for any Amount Owing.

14.2 If we cancel an Order (for reasons other than your breach of these Terms), we will refund any deposit that you have paid to us in full. Otherwise, any deposit that you pay to us is non-refundable, unless we expressly agree otherwise in writing. A deposit may be used to offset any amounts payable by you under these Terms.

15. Late payments and Insolvency Events

15.1 If payment in full of any Amount Owing (which is not subject to a genuine dispute) is not made to us on the due date, or an Insolvency Event occurs:
- (a) we may suspend, or cancel (in accordance with clause 4.1), the hire of any or all Equipment to you;
- (b) you must promptly return Equipment to us on request (and, if you fail to do so, we or our Representatives may enter any premises where Equipment may be stored to take possession of the relevant Equipment);
- (c) we may cancel any rebates or discounts (whether or not previously credited); and
- (d) we may charge you interest at a rate of 2.5% per month on the balance of the outstanding amount from the due date of payment until the date the outstanding amount is paid, accruing daily and charged monthly.

16. Costs of recovering Amounts Owing

16.1 You must reimburse us for any reasonable costs and expenses we incur to recover any Amount Owing, or exercise our rights to recover Equipment, including any debt collection fees or commission and full legal expenses, and any costs incurred by us in picking up and returning Equipment to our premises.

PART G: TITLE AND RISK

Part G sets out ownership of Equipment and who is responsible for the risk of any loss of or damage to Equipment during the Hire Period.

17. Title and risk

17.1 We retain ownership of Equipment. However, all risk relating to the Equipment you hire passes to you on Delivery until the end of the Hire Period.

18. Insurance

18.1 You must maintain in full force and effect during the Hire Period comprehensive insurance cover for the Equipment you hire against physical loss or damage including accident, fire, theft and such other risks as would be prudent for the relevant Equipment. You must keep and maintain adequate public liability insurance covering any loss, damage or injury to property arising out of the Equipment you hire. You will not vitiate any such insurance policy or do anything which causes any right under any such insurance policy not to have full force and effect (including using Equipment or permitting it to be used in such a manner as would allow an insurer to decline a claim).

19. Security interests

19.1 You acknowledge that these Terms create, in our favour, a security interest (as defined in the PPSA) in all Equipment (and, if applicable, any proceeds of such Equipment) (in accordance with clause 17.1) (**Security Interest**), to secure the payment by you to us of the Amount Owing.

19.2 You undertake to promptly sign any further documents which we may reasonably require to enable us to perfect and maintain the perfection of the Security Interest (including by registration of a financing statement) and to provide not less than 14 days' prior written notice of any proposed change in your name and/or any other change in details (including changes in address, trading name or business practice).

19.3 The parties agree to contract out of sections 114(1)(a), 133 and 134 of the PPSA. You agree to waive your rights under the PPSA to the extent permitted by section 107(2) of the PPSA and to receive a verification statement relating to the Security Interest. Where we have rights in addition to Part 9 of the PPSA, those rights will continue to apply.

PART H: COMPLIANCE AND INFORMATION

Part H sets out the provisions relating to health and safety, privacy and confidentiality.

20. Health and safety

20.1 Each party will comply with the Health and Safety at Work Act 2015 (**HSW Act**), including all applicable regulations under the HSW Act, as well as all applicable standards and codes of practice relating to health and safety. In addition, each party will comply with the other party's pre-notified and reasonable health and safety policies when on the party's premises and, in relation to you, when using Equipment.

20.2 You must notify us of any known hazards arising from your premises to which any of our Representatives may be exposed while on the premises and ensure that your workplace is without risks to the health and safety of any person.

20.3 Each party must consult, co-operate with and co-ordinate activities with all other persons who have a health and safety duty in relation to the same matter in relation to Equipment (including in connection with the Delivery of Equipment).

21. Privacy

21.1 We may collect, use and share Personal Information:
- (a) for the purposes of the performance of our obligations or exercise of our rights under these Terms; and
- (b) in accordance with the Privacy Act 2020.

This may include sharing Personal Information with our Related Companies.

21.2 We may use the services of credit reporters and debt collection agencies. We may provide your Personal Information to those agencies in order to use their services.

Information disclosed to credit reporters (including default information) will be held by them and used to provide credit reporting services.

21.3 If you provide us with any information about a third party (including a Representative), or authorise us to collect that information, you confirm that you are authorised by the individual concerned to provide their Personal Information to us or authorise the collection of information about them in accordance with this clause 21. You also confirm that you have informed the individual of their rights to access and request correction of Personal Information.

21.4 You (if you are an individual) and your Representatives have the right to access, and request correction of, any of your Personal Information held by us.

22. Confidentiality

22.1 Each party must keep confidential all Confidential Information.

22.2 Nothing in clause 22.1 prevents a party from disclosing Confidential Information if disclosure is:

(a) required by law, or a Regulator (but only to the extent required or, if applicable, requested by a Regulator);

(b) is reasonably required to enable a party to perform its obligations or exercise its rights under these Terms; or

(c) to a Related Company or Representatives on a 'need to know' basis, provided that person is under a duty to keep the Confidential Information confidential in accordance with these Terms.

22.3 We may refer to you as a customer (including by using your logo) and publish any testimonials or references that you provide to us, on our website and associated marketing materials. We will ensure that any such references or testimonials accurately represent your experience with our Equipment. Please contact us if you do not approve us referring to you in accordance with this clause or have any comments on published content.

23. Insights and Intellectual property

23.1 We may also use any information that we collect in connection with the Equipment to improve our Equipment or other products or services, for statistical and research purposes, and for general information purposes including to provide industry and market insights (together, **Insights**), provided that:

(a) we must ensure that our obligations of confidentiality and privacy are paramount – for example, we will ensure that any information that we disclose or publish in accordance with this clause 23.1 is in a fully aggregated and de-identified form (so that it does not identify you or any individuals); and

(b) we will not use information that we collect in connection with the supply of Equipment to you, in accordance with this clause 23.1, if you have informed us that you do not authorise us to do so.

23.2 To the extent required by law, you grant us a non-exclusive, perpetual, irrevocable, royalty-free licence to use and sub-licence information we collect in connection with the supply of Equipment to you, in accordance with clause 23.1. However, for clarity, we own the intellectual property rights in all Insights.

23.3 We (or our licensors) own all rights, title and interest in the intellectual property rights in Equipment at all times.

23.4 Any new intellectual property which is created by us or on our behalf, including as a result of, or in connection with, the supply of Equipment, will be owned by us, unless otherwise agreed in writing.

23.5 You assign all intellectual property rights to us with effect from creation, to the extent required to give effect to clause 23.3 and 23.4, and agree to do all things reasonably required by us to give effect to such assignment.

23.6 You warrant that the use by us of any designs, instructions or specifications supplied to us by you will not infringe the intellectual property rights of any other person and indemnify us against any losses, damages, liabilities or costs (including full legal costs) that we may suffer or incur in the event of any such infringement.

PART I: DISPUTE RESOLUTION AND LIABILITY

If a dispute arises under these Terms, we must follow the process in this Part I to resolve the matter. If a claim arises under these Terms, any amount payable will be limited by the liability framework set out in this Part I.

24. Dispute Resolution

24.1 If a dispute arises out of or in connection with these Terms, either party may give a notice to the other setting out the details of the dispute (**Dispute Notice**).

24.2 Following receipt of a Dispute Notice:

(a) a Representative of each of us (with authority to settle the dispute) will meet, within 10 Business Days, to try to resolve the dispute;

(b) if the dispute is not resolved within 10 Business Days of our Representatives meeting (or if the meeting does not take place, for any reason, within 10 Business Days of the date of a Dispute Notice), the dispute will be referred to the senior manager of each party (if applicable), who will try to resolve the dispute within a further 10 Business Days; and

(c) if the dispute is not resolved by our respective Representatives in accordance with clause 24.2(b), then either party may commence court proceedings.

24.3 This clause 24 does not restrict either party from applying to a court for interim measures or any other form of urgent relief at any time. However, neither party may commence any other form of court proceeding without first following the procedure set out in this clause 24.

24.4 Each party must continue to perform its obligations in these Terms, despite the existence of a dispute, subject to the termination rights set out in these Terms.

25. Consumer Guarantees Act

25.1 If you are acquiring, or hold yourself out as acquiring, Equipment in trade, to the extent permitted by law, you agree that the parties are contracting out of the CGA (to the extent that the CGA would otherwise apply) and that the CGA does not apply to any matters covered by these Terms.

26. Warranties

26.1 We warrant that all Equipment will be provided in good working order.

26.2 You acknowledge that, except for the warranty set out in clause 26.1 and any written materials that we provide to you:

(a) we do not provide any other express warranties relating to Equipment; and

(b) we expressly exclude any other Equipment warranties, including any warranties relating to the quality or fitness for any particular purpose, of our Equipment. However, this clause 26.2 is subject to any rights that you may have under the CGA (in accordance with clause 25.1).

27. Third party suppliers

27.1 If you request and authorise us to arrange the hire of Equipment directly to you by a third party supplier (whether or not such arrangement involves us contracting as your agent), to the extent applicable, these Terms will apply to our services in arranging such hire, provided that to the extent permitted by law we exclude all liability in connection with the hire of Equipment to you directly by a third party supplier. You agree to pay any commission or other payments due to us in accordance with these Terms.

28. Indemnity

28.1 You are fully responsible for Equipment during the Hire Period, and you indemnify us for the following (whether or not due to your negligence, failure or omission):

(a) loss, theft, or damage to Equipment; and

(b) actions, proceedings, claims, damages, costs and expenses in respect of any injury to persons or damage to property arising out of your use of Equipment.

29. Limitation of liability

29.1 To the extent permitted by law, subject to clause 29.3, our total liability under or in connection with these Terms and Equipment is limited to repairing or replacing defective Equipment.

29.2 Subject to clause 29.3, if we have any liability under or in connection with these Terms, to the maximum extent permitted by law:

(a) our total aggregate liability to you for any loss, damage or liability arising out of or in connection with these Terms will be limited to the Hire Charges paid by you to us for the applicable Equipment; and

(b) we will not be liable for any:

(i) indirect, special or consequential loss or damage whatsoever; or

(ii) loss of profits, revenue, data, goodwill, customers or opportunity or loss of or damage to reputation.

29.3 Nothing in these Terms (including clauses 29.1 and 29.2) will limit or exclude our liability for:

(a) any fraudulent act or omission;

(b) a breach of clause 22 (Confidentiality);

(c) our wilful breach of these Terms;

(d) our gross negligence; and/or

(e) any matter to the extent that liability cannot be excluded or limited by law.

29.4 The limitations and exclusions on liability in this clause 29 will apply irrespective of whether the legal basis for the applicable claim is, contract, equity or tort (including negligence). However, this clause 29 does not limit or exclude any rights that you may have under statute.

29.5 In no circumstances will we have any liability whatsoever under or in connection with these Terms:

(a) for the acts or omissions of your Representatives or any third party;

(b) for any act or omissions of performance in accordance with your instructions (or instructions from your Representatives); or

(c) to any third party.

PART J: GENERAL

Part J describes miscellaneous provisions necessary for the proper operation of these Terms.

30. General

30.1 **Governing Law**: These Terms are governed by and to be construed in accordance with the laws of New Zealand and each party submits to the exclusive jurisdiction of the courts of Whangarei, New Zealand.

30.2 **Previous Agreements**: These Terms supersede and replace any previous written agreements between the parties relating to Equipment.

30.3 **Sub-contracting**: We may subcontract the performance of our obligations (including to a Related Company), on the basis we remain solely liable to you for the performance of our obligations.

30.4 **Assignment:** You must not assign, novate or transfer your rights or obligations under these Terms without our prior written consent (which may be withheld in our sole discretion). We may assign these Terms to any other person on notice to you (provided that we will request your prior approval (not to be unreasonably withheld or delayed) if the assignment could have any material adverse effect on you). Without limiting the foregoing, we may assign to any other person all or part of the Amount Owing by you to us.

30.5 **Amendments**: Any amendment to these Terms must be in writing signed by each party, except where stated otherwise in these Terms or where we are required to make changes to ensure compliance with applicable laws (in which case we notify you of the changes in writing).

30.6 **Force majeure**: We will not be liable to you for any failure or delay in performing our obligations under these Terms where such failure or delay is caused by events or circumstances beyond our reasonable control, including any strike, lockout, labour dispute, delay in transit, embargo, epidemic, pandemic, accident, emergency, order of government or other authority or act of God.

30.7 **Waiver**: A single or partial exercise or waiver of a right relating to these Terms does not prevent any other exercise of that right or the exercise of any other right.

30.8 **Survival**: Any provision of these Terms, which is by its nature a continuing obligation, will survive termination.

30.9 **Rights of Third Parties**: These Terms are not intended to confer a benefit on any person other than the parties to these Terms.

30.10 **Relationship**: We will provide Equipment to you as an independent supplier. Nothing in these Terms creates a relationship of employment, trust, agency, joint venture, partnership or any other fiduciary relationship between the parties.

30.11 **Non-exclusive**: These Terms are not exclusive and do not impose any restriction on us providing Equipment to, or you requesting any equipment or services from, any other person.

30.12 **Counterparts**: These Terms may be executed in any number of counterparts (including by electronic signature or by email exchange of .pdf copies) which together will constitute the one instrument.

PART K: DICTIONARY

Part K sets out a Dictionary, to define the capitalised terms used in these Terms.

31. Definitions

Amount Owing means any amount owed by you to us, from time to time, including the Hire Charges, any applicable amounts referred to in clause 8.3 and 16.1, any interest payable by you, your liability under these Terms and any enforcement costs incurred by us in seeking payment of any Amounts Owing by you.

Business Day means Monday to Friday, excluding public holidays in New Zealand.

Confidential Information means all information that could be reasonably regarded in the circumstances as confidential, including information which relates to the business, interests or affairs of a party, the terms of use or Equipment (as applicable), and intellectual property rights, but excludes information which is:

(a) in the public domain, other than as a result of a breach of these Terms;
(b) in the possession of a party prior to the commencement of these Terms without any obligation of confidentiality; and
(c) is independently developed or acquired by a party prior to the commencement of these Terms without relying on information which would itself be Confidential Information.

Consumer has the meaning given to that term in the Consumer Guarantees Act 1993.

Deliver (and similar words) means delivery of Equipment in accordance with clause 3.1.

Delivery Date means the date for Delivery, as specified in the Order.

Equipment means equipment (including any accessories and associated services), supplied on hire by us to you at any time, including the Equipment specified in an Order.

Hire Period means the period for hire determined in accordance with clause 6.1.

Hire Charges means the hire rate for Equipment determined in accordance with clause 8.1.

Insolvency Event means, in relation to you, any of the following steps has occurred (or we have reasonable grounds to believe that any of these steps is likely to occur):

(a) the primary, or all, of your business activities is suspended or ceases;
(b) the presentation of an application for your liquidation;
(c) the making of any compromise, proposal or deed of arrangement with all or some of your creditors;
(d) the appointment of a liquidator, receiver, statutory manager, or similar official;
(e) your suspension or threatened suspension of the payment of your debts as they fall due;
(f) the enforcement of any security against the whole or a substantial part of your assets;
(g) if you are an individual, anything having a similar effect to any of the events specified above happens in relation to you; or
(h) any other insolvency event or proceedings analogous to any of the foregoing occurs in any relevant jurisdiction,

in each case, unless it takes place as part of a solvent reconstruction, amalgamation, merger or consolidation.

Order means an order for the hire of Equipment that you submit to us, and we approve, in accordance with clause 2.

Personal Information has the meaning given to that term in the Privacy Act 2020.

PPSA means the Personal Property Securities Act 1999.

Regulator means any authority, commission, government department, court, tribunal, or similar having regulatory or supervisory authority over the parties or any of the Equipment.

Related Company has the meaning given to it in the Companies Act 1993, read as if a reference to company was a reference to any body corporate of any jurisdiction.

Representatives means directors, officers, employees, agents and contractors of the relevant party.

Specific Terms means the terms (if any) that are included in Part L to these Terms.

Terms means these Terms of Hire (including any Specific Terms outlined in Part L), as may be amended from time to time, each Order and any additional terms expressly agreed in accordance with clause 1.2 (if applicable).

We or **us** means the supplier of Equipment, Safesmart Rentals Limited.

You or **your** means the customer hiring Equipment from us.

32. Interpretation

In these Terms, unless the context otherwise requires:

(a) headings are for convenience only and do not affect interpretation;
(b) a reference to legislation includes all regulations, orders, instruments, codes, guidelines or determinations issued under that legislation or and any modification, consolidation, amendment, re-enactment, replacement or codification of it;
(c) a reference to "in writing" includes by email and a reference to "agree" or "agreement" or "notice" or "approval" means an agreement, notice or approval (as applicable) in writing;
(d) the words "include" or "including", or similar expressions, are to be construed without limitation;
(e) a reference to a party to includes that party's successors and permitted assigns and substitutes; and
(f) a word importing the singular includes the plural and vice versa.

PART L: SPECIFIC TERMS

Part L details any specific terms that apply to your order for the Equipment.

33. Additional charges

33.1 You acknowledge and agree that:

(a) the erection and dismantling of the Equipment will be carried out during our normal working hours, excluding statutory holidays unless by prior arrangement. All work required outside these hours may require a variation order to be completed. Additional charges shall apply as per the rates stated on our quotation form; and
(b) we reserve the right to vary the Price in the event of:
  (i) increases to us in the cost of labour or materials; or
  (ii) where additional Services are required as result of changes to the Equipment to be supplied or Hire Period; or
  (iii) unforeseen circumstances(including, but not limited to, poor weather conditions, obstructed access to the site, downtime waiting to install, dismantle, deliver or pick up the Equipment, protruding or dismantled formwork, repositioning or adjusting the Equipment, additional site visits required, safety considerations, obscured building defects (including, but not limited to, rotten or broken soffits etc.), prerequisite work by any third party not being completed, etc.) which are only discovered on commencement of or during the course of the Services

33.2 Any variations to the Price will be dealt with in accordance with the provisions of clause 5.

34. Accuracy of plans and measurements

34.1 We shall be entitled to rely on the accuracy of any plans, specifications and other information provided by you. You acknowledge and agree that in the event that any of this information provided by you is inaccurate, we accept no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information.

34.2 In the event you give information relating to measurements and quantities of the Equipment required to complete the Services, it is your responsibility to verify the accuracy of the measurements and quantities, before either of us places an Order based on these measurements and quantities. We accept no responsibility for any loss, damages, or costs however resulting from your failure to comply with this clause.

35. Product specifications

35.1 You acknowledge and accept that the product supply of shrink wrap and scaffolding shade cloth offers a manufacturer's guarantee of UV protection and can withstand up to the MetService definition regarding strong gale force winds, being winds of up to 63-74kph.

36. Access and installation

36.1 You shall ensure that we have clear and free access to the nominated site to enable us to install and/or dismantle the Equipment, and we agree at the time of completion thereof to carry out in a reasonable way the clean-up of the site where Equipment was installed. Furthermore, it is acknowledged that it is unreasonable to expect the clean-up to restore the site to its pre-existing condition, especially in the event where existing grass has died off due to the covering of base blocks to establish foundation support for the Equipment, such damage will remain your responsibility.

36.2 Unless otherwise agreed, it shall be your responsibility to arrange for any traffic/pedestrian management for the transportation of the Equipment or the erection/dismantling of the Equipment.

36.3 It shall be your responsibility to ensure that where Equipment is installed on concreted areas, patios, driveways, timber decks, lower-level roof areas or other structures that suitable coverings are put in place to help prevent any marking/staining of the finished product. We shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways, lower-level roofs, and concreted or paved or grassed areas) unless due to the negligence of us.

36.4 You shall ensure that the nominated site is cleared and ready for installation of the Equipment prior to delivery, and that the foundations upon which we are to install the Equipment is sufficiently firm and otherwise suitable to safely carry the structure and the load to be put on it without subsidence. You will be liable to us for any loss, costs or damages which we may suffer or incur by reason of your failure to carry out your obligations hereunder if we are unable or unwilling to install the Equipment due to the site not being cleared and ready as a foresaid. Nevertheless, you shall be liable to pay the costs of the hire of the Equipment on the terms stated herein.

36.5 Unless you instruct/direct otherwise, we shall place the Equipment at the nominated site at the nearest clear area to the roadside. We shall not be liable for any damages incurred by you or any third party (including damage to property) in following any instructions/directions of yours to deliver the Equipment elsewhere at the site. In all cases, you agree to indemnify us against any claims whatsoever made against us that arise out of the placement and/or re-positioning of the Equipment (including, but not limited to, any re-positioning of the Equipment for safety requirements where such has been installed by any other third party).

36.6 Where the Equipment is not installed by us, you shall ensure that Equipment is erected and dismantled by qualified persons. A suitable qualified person shall be the holder of any certificate of competency or license that may be required by any legislation or local regulatory authority for the purpose of the installation or the dismantling of the Equipment.

37. Installation and dismantling

37.1 Where we are required to install the Equipment, you warrant that the structure of the premises or Equipment, in or upon which the Equipment are to be installed is sound and will sustain the installation and work incidental thereto and we 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.

37.2 We shall not be held responsible for any damage to the Equipment or delays to delivery caused by outside agents. Where you request us to repair such damage then we reserve the right to charge you for any costs incurred in rectifying such damage.

38. Affixation of Equipment to land or buildings

38.1 If the Equipment or any part thereof is affixed to any land or buildings pursuant to this contract, and the land or buildings are or become the subject of a mortgage or charge whether under the PPSA or otherwise at law, then you shall, without first receiving any request from us, obtain the written acknowledge of the mortgagee or charge hold (as the case may be) that:

(a) the Equipment or any part thereof is not a fixture for the purposes of the mortgage or charge;
(b) that the mortgagee or chargeholder will not make any claim in relation to the Equipment or any part; therefore, and
(c) that the mortgagee or chargeholder will permit us (whether there has been any default under the mortgage or charge) to enter upon the land or buildings and to remove the Equipment or part thereof.

39. Inspection of Equipment

39.1 You hereby grant us (including our employees, duly authorised agents or representatives) the right, at all times, upon us giving to you reasonable notice and without unduly interfering with your business or operations, to:

(a) enter onto the site(s) where the Equipment or any part thereof may be located; and
(b) inspect the state of repair or condition of the Equipment; and/or
(c) carry out any such tests on the Equipment as may be reasonably necessary including, but not limited to, health and safety tests or inspections; and/or
(d) observe the use of the Equipment by you; and/or
(e) do any act, matter or thing which may be required at law or to otherwise protect our right or interest in the Equipment.