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SUWITO
Design & Construction

Terms & Conditions

This agreement governs the supply on hire of any goods ("**Goods**") and supply of any services ("**Services**") by Suwito Pty Limited ACN 063 506 794 ("**Suwito**") to you ("**Customer**"). Unless otherwise specifically agreed in writing by Suwito, all orders placed by the Customer with Suwito for supply of the Goods and Services will be on the following terms and conditions.

In these terms and conditions:

"*Event*" means the event(s), tradeshow(s) or convention(s) identified in Suwito's quotation.

"*Exhibit*" means the Event/display stand for use by the Customer at the Event.

1. Quotations and Acceptance

- 1.1 Suwito's quotations are only open for acceptance within 14 days after their date.
- 1.2 Quotations will become binding on Suwito only upon receipt of an unconditional written acceptance in such form as Suwito may require.
- 1.3 Written acceptance of Suwito's quotation will constitute acceptance by the Customer of any design concept submitted by Suwito to the Customer on or before the date of Suwito's quotation.
- 1.4 All Goods and Services to be supplied by Suwito will be as described in the quotation given by Suwito and accepted by the Customer irrespective of any purported variation in the order accepting such quotation.

2. Pricing

- 2.1 Unless otherwise indicated, all prices quoted by Suwito are exclusive of GST (as that term is used in a *New Tax System (Goods and Services Tax) Act 1999* (Cth) as may be amended from time to time).
- 2.2 If GST is payable by Suwito in respect of the supply of the Goods and/or Services to the Customer, the price for the Goods and/or Services shown in any quotation, invoice or other document ("**Original Amount**") is to be increased so that Suwito receives an amount ("**Increased Amount**") which after subtracting the GST liability of Suwito arising from the supply of the Goods and/or Services, results in Suwito retaining the Original Amount.
- 2.3 Suwito will do all things reasonably available to it to assist the Customer to claim, on a timely basis, input tax credits (if any) the Customer may be entitled to claim for the acquisition of the Goods and/or receipt of Services from Suwito. This includes Suwito maintaining its registered status for GST purposes, and issuing tax invoices for the Goods and/or Services supplied to the Customer.
- 2.4 The Customer is responsible for paying all charges associated with utilities used in or for the Exhibit including electricity, gas, water and telephones.
- 2.5 All goods/materials owned by the Customer:
 - 2.5.1 stored on the Customer's behalf;
 - 2.5.2 delivered to Suwito for transport to the Event and any subsequent movements;
will incur additional charges for warehousing, cartage and material handling as Suwito reasonably determines. All such goods/materials are accepted for storage or delivery by Suwito entirely at the risk of the Customer and no liability whatsoever (including arising from negligence) is accepted by Suwito. Any goods/materials not collected from Suwito within 6 months of delivery may be sold by Suwito and the proceeds applied against any moneys owing to Suwito by the Customer on any account.

Payment Terms

- 2.6 The Customer must pay such percentage of the price as is indicated on Suwito's quotation upon acceptance of it and the balance outstanding must be paid by the Customer on the day of completion of the Event to which the quotation relates. If no percentage is indicated on the quotation then the Customer must pay 100% of the price as is indicated on Suwito's quotation upon acceptance of it.
- 2.7 Any additional amounts charged by Suwito to the Customer whether under clause 2.5 or otherwise, are payable within 7 days of the date of the invoice giving rise to the additional amounts charged.
- 2.8 If the Customer breaches any term of this agreement including any payment obligation or breaches clause 3.4, then:
- 2.8.1 All monies owing under outstanding invoices will become immediately due and payable and Suwito may render invoices for all Goods supplied and/or Services rendered up to that point in time and those invoices will also thereby become due and immediately payable; and
- 2.8.2 Without prejudice to any other rights it may have, Suwito may suspend the supply of further Goods and/or Services or immediately terminate any and all agreements between it and the Customer by written notice to the Customer.
- 2.9 The Customer will must not commit any act of bankruptcy (if a natural person) or (being a company) appoint any external controller or suffer any external controller (including administrator, liquidator or receiver or receiver and manager) to be appointed to it.
- 2.10 The Customer will pay interest on all overdue payments at the rate of 3% per month (or such other rate as Suwito may specify from time to time) from the due date for payment until the date that payment is actually made.

3. Variations and Cancellation

- 3.1 Suwito reserves the right to reject any orders or changes to production details which have been requested by the Customer within 30 days of the start of an Event.
- 3.2 Any changes requested by the Customer to the design concept and/or production details as provided in the tender presentation must be in writing. All changes to the design concept and/or production details (which are material in Suwito's opinion acting reasonably) and which are requested after the date of Suwito's quotation will be the subject of an additional charge as reasonably determined by Suwito.
- 3.3 For Services ordered by the Customer after the commencement of the erection of the Exhibition, the following will apply:
- 3.3.1 Such Services will be charged at the prevailing floor order rate;
- 3.3.2 A co-ordination fee will be payable to Suwito for such Services which are acquired by Suwito from third parties.
- 3.4 The Customer may not terminate this agreement after acceptance of Suwito's quotation except with the prior written consent of Suwito and on terms including a term by which the Customer indemnifies Suwito against all losses and claims.

4. Design Concept and Production Details

- 4.1 It is the Customer's responsibility to:
- 4.1.1 provide Suwito with accurate, complete and detailed instructions concerning the Goods and/or Services required and the Exhibit;
- 4.1.2 book the Exhibit space;
- 4.1.3 provide Suwito with the Event manual (if any) and all other information relevant to the Event and the Exhibit.
- 4.2 All orders are accepted on the understanding that the Customer is solely responsible for:
- 4.2.1 determining that the Services and/or the Exhibit meet the safety requirements and the requirements of their intended function and application;
- 4.2.2 liaising with the Event co-ordinator and obtaining design approval.
- 4.3 All product data, design and other details submitted by Suwito in the tender are approximate only. Suwito endeavours to supply the Goods and/or Services as close to the tender presentation as is reasonably possible. The Customer is not entitled to make any objection or claim for compensation or rescind or terminate this agreement if the Exhibit manifests any material deviation from the tender presentation or as set out in the quote.
- 4.4 All production data, design and other details submitted to the Customer after acceptance of Suwito's quotation will be deemed to be approved by the Customer unless Suwito is notified in writing to the contrary within 5 days of submission.
- 4.5 All advice, published material and other information provided by Suwito is provided only as a guide to available Goods and Services and does not form part of this agreement. Reliance on all such information and advice and any changes to the Exhibit made at the Customer's request are entirely at the Customer's risk.

5. Goods Supplied

- 5.1 All Goods manufactured by Suwito for use in the Exhibit remain the property of Suwito. All Goods supplied by Suwito for use in the Exhibit but which are not owned by Suwito, remain at all times the property of the entity which owns them at that time and no rights in or to any of the Goods are acquired by the Customer other than those specifically as set out herein.
- 5.2 The Contractor agrees that all such Goods are hired by Suwito to the Customer solely for the purpose of the Event, and the Customer's rights are limited to that of a bailee and may not grant any security interest in the Goods to any third party.

- 5.3 Suwito will obtain all necessary permits, licences and consents required for Suwito to construct or otherwise install the Exhibit, including the stand components, rigging, lighting gantry and electrical inventory such as speakers and televisions and will comply with all conditions imposed thereon;

6. Intellectual Property

- 6.1 All production data, design concept and other details offered by Suwito are and remain (i) the intellectual property of Suwito or (ii) the intellectual property of a third party and Suwito is supplying them under licence.
- 6.2 All images, logos and text supplied by the Customer to Suwito for display in or around the Exhibit or forming part of the design works relating to the Exhibit will remain the intellectual property of the Customer and the Customer licences the use of same to enable Suwito to provide the Services.
- 6.3 The Customer releases Suwito from and indemnifies Suwito against any and all claims from the Customer or any third party based on any infringement or alleged infringement of intellectual property rights in respect of any design, item or thing supplied by the Customer to Suwito.

7. Warranties, reliance and employees

7.1 Warranties

- 7.1.1 Suwito warrants that it will use reasonable care and skill in supplying the Goods and/or Services to the standard generally accepted within the Project Management industry.
- 7.1.2 Suwito indemnifies the Customer for any and all claims by third parties in respect to any breach or alleged breach of any intellectual property rights arising from the use of or public display of any intellectual property supplied by Suwito at the Event.

7.2 No reliance

Each of the parties acknowledges that, in entering into this agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this agreement. Any conditions, warranties or other terms implied by statute or common law are excluded from this agreement to the fullest extent permitted by law.

7.3 Employees and subcontractors

Suwito covenants that Suwito is solely responsible for the payment of all amounts due to each of its employees and contractors whether by way of salary, superannuation, annual leave, long service leave or any other benefits to which they are entitled by law.

8. Exhibit and Insurances

- 8.1 The Services will unless otherwise specified in the quotation include the unpacking, set up, dismantling and repacking of the Exhibit. Upon the Customer's use of the Exhibit, satisfactory set up will be deemed to have occurred.
- 8.2 Suwito does not provide on-site security at Events. At no time is Suwito liable for fire, theft, loss of property or other risks to the Exhibit or the Customer's property within the Exhibit. The Customer is responsible for taking adequate security measures to protect the Exhibit and its own property and the Goods supplied by the Supplier at the Event.
- 8.2 The Customer is responsible for insuring its own property and all Goods supplied by Suwito for their replacement value against any loss or damage during the term of this agreement and the Customer will be fully responsible for any loss of or damage to the Goods however occasioned.
- 8.3 The Customer must effect and maintain at all times during the term of this agreement, public risk insurance relating to the Goods and the Exhibit for an indemnity of not less than \$20,000,000 for any one Event.

9. Implied Contracts

The terms appearing in this document are incorporated by implication into all agreements between Suwito and the Customer irrespective of any terms appearing in documentation provided by the Customer.

10. Force Majeure

- 10.1 Neither party has any liability under this agreement for any delays or failures in performance of this agreement which result from circumstances beyond the reasonable control of that party.
- 10.2 For the avoidance of doubt, government directives in respect to the current Covid-19 pandemic are considered to be a force majeure event contemplated by clause 11.1 above.
- 10.3 In the event of a force majeure event, no payments made by the Customer are to be refunded and all payments that are not yet paid become immediately due and payable.

11 Customer's obligations

The Customer will

- 11.1 Hire the Goods at its own risk and bear responsibility for the Goods hired from the time of their delivery in into the possession of the Customer until collection by or return to Suwito;
- 11.2 Where necessary be responsible for obtaining the necessary permits and/or plans and pay such fees as may be required to use the Goods at the Exhibition;
- 11.3 Not remove the Goods from the Exhibit and must not sub-hire or part with possession or part with control of the Goods or any of them without Suwito's written permission.
- 11.4 Assume the risk and indemnify and hold Suwito harmless from and against any and all property damage and personal injury and death resulting from:
 - 11.4.1 the use of the Goods or any of them;
 - 11.4.2 contact with underground cables, pipes, services or other obstructions; and
 - 11.4.3 all necessary service repairs.
- 11.5 Use the Goods in a proper, safe and prudent manner and only for the purpose and capacity for which they were designed;
- 11.6 Comply with any written instructions given to the Customer or accompanying the Goods;
- 11.7 Ensure all Goods are returned or ready for collection by Suwito in a clean, dry and properly packed condition and if being collected, are readily accessible; and
- 11.8 Will pay for all cleaning or drying costs and for any damage resulting from not properly drying, cleaning and/or packing the Goods.

12. Property

The Customer acknowledges that Suwito may inspect the Goods at any time during the period of hire, whether notice of such inspection is given to the Customer or not, and the Customer shall provide all assistance and cooperation necessary to facilitate such inspection of the Goods. The Customer shall indemnify Suwito in relation to any action of trespass or any other action or claim against Suwito in the course of Suwito exercising its right to inspect the Goods.

13. Loss of or damage to Goods

- 13.1 If the goods are lost, breakdown or are damaged (or any part of them suffers such occurrence), the Customer must immediately notify Suwito of the details. Notification shall not absolve the Customer from its obligations under these terms. In the event that the Goods breakdown or become unsafe to use, the Customer shall immediately stop using the Goods and take all necessary steps to prevent the Goods from sustaining any further damage.
- 13.2 The Customer must also take all steps necessary to prevent injuries from occurring to any person or property as a result of the condition of the Goods and must not repair or attempt to repair the Goods without the prior written consent of Suwito. If the Goods are lost or damaged and the loss or damage is caused by the negligence or wilful act or omission of the Customer or the breach of any part of this agreement by the Customer, then that Customer shall without limitation be liable for:
 - 13.2.1 Any costs incurred by Suwito in repairing or replacing the Goods;
 - 13.2.2 Hiring charges for replacement goods until the Goods are repaired or replaced; and
 - 13.2.3 Any other costs whatsoever incurred or loss suffered by Suwito as a result of the damage to or loss of the Goods.

14. Release and indemnity

The Customer hereby releases Suwito from, and agrees to indemnify Suwito against any third party claim, action, suit, demand, cost and expense in relation to injury to any person or death or damage or loss suffered in respect to any property arising directly or indirectly out of the hire or use of the Goods by the Customer or the Customer's breach of any of these terms.

15. Limit of liability

- 15.1 Suwito is not liable to the Customer in contract, tort (including negligence), breach of statutory duty or otherwise for any loss, damage, cost or expense of any nature whatsoever incurred or suffered by the Customer of an indirect or consequential nature including any economic loss or other loss of turnover, profits, business or goodwill.
- 15.2 Suwito gives no warranties, guarantees or conditions except as expressly provided for in this agreement. To the fullest extent permitted by law, all warranties, conditions and guarantees that may otherwise apply or be implied are excluded and
 - 15.2.1 Suwito's only obligation resulting from a breach by it of any condition, warranty or guarantee pertaining to the supply of the Goods that cannot be excluded is limited to replacing the Goods or supplying goods similar to the Goods or repairing the Goods or paying the cost of replacing the Goods or paying the cost of repairing the Goods; and

- 15.2.2 Suwito's only obligation resulting from a breach by it of any condition, warranty or guarantee pertaining to the supply of the Services that cannot be excluded is limited to supplying the Services again or paying the cost of supplying the Services again.
- 15.3 The liability of Suwito under or in connection with this agreement whether arising in contract, tort (including negligence), breach of statutory duty or otherwise must not exceed the amount paid by the Customer to Suwito under this agreement and any claim or demand must be made within six months of when the Customer became or should have become aware of its entitlement to make the claim or demand.
- 16. Effect of termination**
- 16.1 Upon the termination or expiration of this agreement, Suwito is entitled to take possession of the Goods immediately and for this purpose the Customer irrevocably appoints Suwito as the Customer's agent and authorises Suwito to:
- 16.1.1 enter upon any land or premises upon which the Goods are situated or where Suwito has any reason to believe that the Goods may be situated; and
- 16.1.2 remove the Goods whether or not they are affixed to the land or to premises connected to property or goods not supplied by Suwito.
- 16.2 If the Goods are not returned or if Suwito has agreed beforehand to collect them at the expiration or termination of the agreement and they are not ready for collection by Suwito then the Customer shall pay an additional charge of 100% of the daily rate of supply of the Goods or any part of them for every additional day or part thereof that the Goods or any part of them is retained by the Customer unless otherwise agreed in writing between the parties.
- 17. Security interest**
- 17.1 These provisions (including the provisions of clause 2.5.2) create a security interest (including where applicable a purchase money security interest) in the Goods in favour of Suwito as grantee pursuant to the provisions of the Personal Property Securities Act 2009 (Cth);
- 17.2 The Customer undertakes to immediately do such acts and things and sign such documents and provide such information as in the opinion of Suwito may be necessary or desirable to enable Suwito to perfect any security interest created or provided for by these terms, as a perfected security interest with first priority.
- 17.3 To the fullest extent permitted by law, the Customer waives any rights it may have now or in the future to receive a copy of any verification statement or other confirmation relating to the interests created or provided for or perfected in the manner contemplated by these terms.
- 18. Miscellaneous**
- 18.1 Unless expressed in writing to the Customer, the failure or delay by Suwito in exercising any right, power or privilege available to it will not operate as a waiver thereof nor will the exercise by Suwito of any other right, power or privilege prevent it from exercising any other rights, powers or privileges available to it.
- 18.2 The validity and interpretation of these terms and conditions and their effect are governed by the laws in force in NSW. Each party submits to the jurisdiction of courts of that State.
- 18.3 If any part of these terms and conditions is held to be void or unlawful, these terms and conditions will be read and enforced as if the void or unlawful provision is deleted.
- 18.4 Nothing in this agreement is intended to create an agency or joint venture relationship between Suwito and the Customer. Neither party will have any authority to bind the other to any obligation to any third parties, unless otherwise agreed to in writing by Suwito and the Customer.
- 18.5 Where any of these terms and conditions are inconsistent with the Customer's terms & conditions, Suwito's terms and conditions shall prevail to the extent of any inconsistency.

These Terms and Conditions are available on Suwito's website.

Executed by the parties as an agreement.

Signed for and on behalf of..... [Client name and Client ACN] by its authorised representative in the presence of:

Director/Secretary/witness

Director / signatory

Print name

Print name

Signed by Suwito Pty Limited ACN 063 506 794

Sarah Suwito, Sole Director and Secretary

Witness

Print name