



TERMS & CONDITIONS OF HIRE & SALE

1. Definitions

“**Goods**” means the Goods described in this Contract and any replacement Goods provided by Rural Cinema in substitution for those Goods and includes all accessories and other equipment attached to the Goods described.

“**The Customer**” means the person named in this Contract as the purchaser or hirer of Goods.

“**The Hire Period**” means the period specified in this Contract for the rental of Goods or, if no period is specified in relation to Goods that are rented for an indefinite period.

“**The Interest Rate**” means 18% per annum.

“**The Price**” means the purchase price of Goods in the case of a sale and the hire charge for Goods in the case of a hire.

“**The Contract**” means any Contract incorporating these terms and conditions. A reference to the Contract includes a reference to these terms and conditions as varied by the Contract.

2. Precedence of Documents

These terms and conditions will apply to the Contract in addition to any other terms and conditions specified in the Contract. These terms and conditions will take precedence over any conflicting terms and conditions unless the Contract states that other terms and conditions take precedence.

3. Payment

3.1 The Customer must pay the Price at the time specified in the Contract. If no time is specified, the Customer must pay the Price no later than **14 DAYS** from the date of invoice.

3.1 The Customer must pay GST on all supplies made by Rural Cinema pursuant to the Contract. Rural Cinema must give the Customer a tax invoice stating the Price and the GST payable prior to the time for payment.

3.2 Time is of the essence in relation to payment of the Price and other monies to Rural Cinema. If payment is not made on or before the due date, the Customer must pay interest on the balance of monies outstanding from the date of invoice or the date on which the Customer received Goods (whichever is the earlier) until payment in full to be calculated at the Interest Rate at daily rests and to be paid on demand or if no demand is made then on the last day of each and every month.

3.1 If the Customer breaches the Contract, the Customer must pay all costs and expenses (on an indemnity basis) incurred by Rural Cinema in relation to recovery of the Price or enforcement of the Contract, including legal (on a solicitor and client basis), accounting and related fees, costs and disbursements.

3.1 The Price excludes GST (unless stated to include GST). Upon receipt of a tax invoice from Rural Cinema, the Customer must pay GST on supplies made pursuant to the Contract, when applicable.

4. Delivery

4.1. Upon delivery of Goods to the Customer, acceptance of delivery by the Customer will constitute an offer by the Customer to accept such Goods in satisfaction of the Contract and on the terms and conditions contained in the Contract, which offer Rural Cinema, will be deemed to have accepted. An offer made by the Customer pursuant to this Clause will replace any prior offer made by the Customer.

- 4.2. Rural Cinema will use all reasonable endeavors to deliver Goods on a date agreed with the Customer. Unless specified in the Contract, delivery times given by Rural Cinema are estimates only and Rural Cinema will not be liable to the Customer for late or non delivery.
- 4.3. Rural Cinema will not be responsible to the Customer for any loss, damage or other liability (whether in contract, tort or otherwise) arising directly or indirectly out of delays in delivery caused by anything beyond the control of Rural Cinema.
- 4.4. Rural Cinema is not a common carrier and will not be responsible to the Customer for any loss or damage to Goods in transit caused by any event of any kind by any person, except where risk in the Goods remains with Rural Cinema.
- 4.5. Delivery of Goods shall be deemed to have occurred at the time the Goods are collected by the Customer or, if Rural Cinema has agreed to deliver the Goods, at the time of loading of the Goods for delivery.
- 4.6. The Customer shall pay all charges related to delivery and collection of the Goods including but not limited to labour, installation and transportation charges. Rural Cinema reserves the right to set and change such charges, and to sub-contract supply and / or delivery of the Goods.

5. Risk and Property in Goods

- 5.1 All risk of loss or damage to the Goods will pass to the Customer at the time of delivery calculated pursuant to Clause 4.5.
- 5.2 Notwithstanding the passage of risk, Rural Cinema retains title to and ownership in the Goods until Rural Cinema receives payment of the price in full for the Goods. Until such time, the Customer must hold the Goods as bailee and agent for Rural Cinema and must not sell, encumber or dispose of or claim any lien over the Goods or keep or store the Goods on any premises not occupied by the Customer or allow any person other than the Customer to use the Goods in any way without the written consent of Rural Cinema and the Customer must insure the Goods for full replacement value noting the interest of Rural Cinema as owner on the policy.
- 5.3 Until payment of the Price in full, the Customer authorises Rural Cinema to enter upon any premises leased, owned or occupied by the Customer without liability for trespass or any resulting damage caused to property for the purpose of collecting, taking possession of, claiming or confirming the location and condition of the Goods at any time during usual business hours and without giving notice. In exercising its rights pursuant to this Clause, Rural Cinema must use reasonable endeavors not to unreasonably interfere with the operation by the Customer of its business.
- 5.4 If the Customer sells the Goods or uses the Goods in any manufacturing process so as to change the character of the Goods, the Customer must hold such part of the proceeds of sale as represents the Price of the Goods sold or used in the manufacture process in a separate identifiable account as the separate property of Rural Cinema. The Customer must notify Rural Cinema of the amount held and pay such amount to Rural Cinema upon request.
- 5.5 Clauses 5.1 to 5.4 do not apply in the case of a hire of Goods to the Customer.

6. Limitation of Liability

- 6.1 The Contract excludes (to the extent to which the same can be excluded) all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability, fitness for purpose or as to design, assembly, installation, materials, workmanship or otherwise.
- 6.2 All classes of action against Rural Cinema arising out of or in relation to the Contract or the performance or breach thereof will expire unless brought within **6 MONTHS** of the time of accrual of the cause of action.
- 6.3 Rural Cinema may, in its absolute discretion, elect any of the following in satisfaction or any warranty condition or other claim in relation to the Goods:
 - i. Refund of the Price;
 - ii. Repair of the Goods;
 - iii. Replacement of the Goods or supply of equivalent Goods;
 - iv. Payment of the cost of having the Goods repaired.

7. Indemnity

- 7.1 Except where this Contract expressly imposes liability on Rural Cinema, the Customer indemnifies Rural Cinema, its agents and employees against all claims, demands, actions, costs (including legal costs), charges, expenses, loss, damage and other liabilities arising from:

- i. Loss or damage to any property or the death of or injury to any person in connection with the supply or use of the Goods; or
- ii. Cancellation of the Contract by the Customer without the prior written consent of Rural Cinema; or
- iii. Breach by the Customer of any provision of the Contract; or
- iv. Cancellation of event by a 3rd party.

8. Hire Terms and Conditions

- 8.1 These terms and conditions apply in relation to the hire of Goods to the Customer.
- 8.2 The Customer agrees:
 - 8.2.1 To use the Goods only for their intended purpose and not for any illegal purpose or any purpose which is inappropriate given the nature of the Goods;
 - 8.2.2 To keep the Goods in first class condition and to use them only as they would be used by a careful and prudent owner;
 - 8.2.3 To keep the Goods at the place described in the Contract and not to change the place where the Goods are ordinarily kept without giving prior notice to and obtaining the prior consent of Rural Cinema;
 - 8.2.4 Not to agree, attempt or offer to sell, assign, sub-let, lend, pledge, mortgage, let on hire or otherwise part with possession or otherwise deal with the Goods or any part thereof, nor to create any workman's or other lien in respect of the Goods or any part thereof;
 - 8.2.5 To notify any person seizing the Goods of the ownership of Rural Cinema in the Goods and to give immediate notice to Rural Cinema of such seizure;
 - 8.2.6 To report any damage to or loss of the Goods to Rural Cinema immediately upon such damage or loss being sustained;
 - 8.2.7 To assume liability for any breach of the Contract by the Customer, its servants or agents;
 - 8.2.8 Not to conceal or alter the Goods or make any addition or alteration to or repair of the Goods; and
 - 8.2.9 To make the Goods available for collection by Rural Cinema, or to return the Goods to Rural Cinema, as required by the Contract, at the conclusion of the Hire Period or immediately upon termination of this Contract.
- 8.3 The Customer acknowledges that:
 - 8.3.1 Rural Cinema holds title to the Goods at all times and that the right of the Customer to possess the Goods pursuant to the Contract arises as a mere bailee only;
 - 8.3.2 The Customer has no right to purchase the Goods from Rural Cinema at any time and that no representation to that effect has been made by or on behalf of Rural Cinema;
 - 8.3.3 Any information provided by the Customer to Rural Cinema for the purposes of or in connection with the Contract is true and correct at the time it was given to Rural Cinema;
 - 8.3.4 The Customer has not relied upon any representations or warranties made or given by Rural Cinema regarding the performance, adequacy or suitability of the Goods;
 - 8.3.5 Rural Cinema does not refund upon termination of this Contract and is entitled to keep and apply for its own purposes any Price paid to Rural Cinema in advance; and
 - 8.3.6 Rural Cinema accepts no responsibility or liability whatsoever for loss or damage or injury (including death) to person or property arising out of the use of the Goods by any person whilst the Goods are in the possession or control of the Customer.
- 8.4 Rural Cinema may in its absolute discretion, and as specified in this Contract, require the Customer to pay:
 - 8.4.1 A bond which shall be refunded to the Customer upon the return of the Goods to Rural Cinema in a satisfactory condition. If the Goods are not returned to Rural Cinema or are not returned in a satisfactory condition, or if any Price is outstanding upon termination of this Contract, the Customer authorises Rural Cinema to apply the bond towards reinstatement, repair or replacement of the Goods or payment of outstanding Price;
 - 8.4.2 The reasonable costs of repair or replacement of the Goods in the event of the Goods being lost or damaged or dealt with in a manner inconsistent with the Contract;
 - 8.4.3 A pick up and delivery fee or fees in respect of the delivery by Rural Cinema of the Goods to the Customer at the commencement of or during the Hire Period and the collection by Rural Cinema of the Goods from the Customer at the conclusion of the Hire Period or upon termination of the Contract;
 - 8.4.4 A cleaning fee in the event that the Goods or any of them are returned by the Customer to Rural Cinema in a condition which in the reasonable opinion of Rural Cinema requires them to be cleaned before being made available for rent or hire to any other person; and

- 8.4.5 A repossession fee of \$77.00 (including GST) in the event of the failure of the Customer to return the Goods or to make the Goods available to Rural Cinema within 24 hours of conclusion of the Hire Period or termination of this Contract;
- 8.5 If the Hire Period is an indefinite period, the Contract may be terminated by either Rural Cinema or the Customer at any time by written notice of termination given to the other. Where the Hire Period is a fixed period, a party to this Contract may terminate this Contract only if:
 - 8.5.1 In the case of Rural Cinema, the Customer has breached the terms and conditions of the Contract and such breach has not been remedied prior to the time of termination; and
 - 8.5.2 In the case of the Customer, Rural Cinema is in breach of the Contract and such breach has not been remedied at the date of termination.
- 8.6 If Rural Cinema holds a screening license on behalf of the customer or for the customer's event, the customer agrees, to pay all monies demanded by the distributor for the hire period.

9. Governing Law

- 9.1 The laws of the State of Western Australia will apply to the Contract and the parties submit to the jurisdiction of the Courts in that State.

10. Miscellaneous

- 10.1 Rural Cinema may but the Customer must not assign its interest in this Contract.
- 10.2 If any provision of the Contract is or at any time becomes prohibited by law or otherwise becomes void or unenforceable, it will be severed from the Contract without affecting or diminishing the effect or enforceability of the remaining provisions of the Contract.
- 10.3 Any person signing the Contract for or on behalf of the Customer warrants that he is authorised to enter into the Contract on behalf of the Customer and acknowledges that he will be liable to Rural Cinema in damages for all loss and damage suffered by Rural Cinema in the event that such warranty proves false.
- 10.4 Rural Cinema reserves all of its rights at law and in equity against the Customer arising out of a breach of The Contract by the Customer.
- 10.5 All obligations of the Customer under the Contract will survive termination of the Contract to the extent required for their observance, performance and enforcement.
- 10.6 No failure or delay by Rural Cinema to exercise any right, remedy or power under the Contract or at law will operate as a waiver of that right, remedy or power.
- 10.7 Rural Cinema can not be held liable for any losses by the customer from cancellation of screening license by title owner or their representatives, and
- 10.8 Rural Cinema will be reimburse for all expenses incurred, when cancellation of Rural Cinema service by any third party.
- 10.9 These terms and condition for hire and sales, Dated 1st day of June 2010, supersedes any previous terms and condition for hire and sales.

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