

Crypal Pty Ltd - Terms & Conditions of Hire

1. Definitions	arising from any negligence, failure or omission of the Client or any other person.
1.1 "Supplier" means Crypal Pty Ltd, its successors and assigns or any other person acting on behalf of or in authority of Crypal Pty Ltd.	Relocation of transfer of the Equipment from one site to another must have the Supplier's approval prior to such relocation or transfer of the Equipment.
1.2 "Client" means the person/s or any person acting on behalf of and with the authority of the Client requesting the Supplier to provide the services as specified in any proposal, quotation, order, invoice or other document, communication, or correspondence.	The Client acknowledges that the Supplier maintains, handles and otherwise ensures the circulation of all identified Equipment.
1.3 (a) if there is more than one Client, is a reference to each Client jointly and severally; and	Title to Equipment
(b) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and	The Equipment is and will at all times remain the absolute property of the Supplier, and the Client must return the Equipment to the Supplier upon request to do so, and if the Client fails to do so, then the Supplier or the Supplier's agent may (as the invitee of the Client) enter upon and into any land and premises occupied, occupied or used by the Client, or any premises where the Equipment is situated and take possession of the Equipment, without being responsible for any damage thereby caused. Any costs incurred by the Supplier as a result of the Supplier so repossessing the Equipment shall be charged to the Client.
(c) includes the Client's executors, administrators, successors and permitted assigns.	The Client is not authorised to pledge the Supplier's credit for repairs to the Equipment or to create a lien over the Equipment in respect of any repairs.
1.4 "Equipment" means all Equipment (including, but not limited to pallets, pallet cases, containers, stillages and any accessories) supplied on hire by the Supplier to the Client (and where the context so permits shall include any incidental supply of services or goods). The Equipment shall be as described on the invoices, quotation, authority to hire, or any other work authorisation forms as provided by the Supplier to the Client.	Personal Property Securities Act 2009 ("PPSA")
1.5 "Goods" means all Goods supplied by the Supplier to the Client at the Client's request from time to time (where the context so permits the terms "Goods" or "Services" shall be interchangeable for the other).	In this clause "financing statement" means a financing statement, security agreement, and security interest has the meaning given to it by the PPSA.
1.6 "Minimum Hire Period" means the Minimum Hire Period as described on the invoices, quotation, authority to hire, or any other forms as provided by the Supplier to the Client.	Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Equipment that has previously been supplied and that will be supplied in the future by the Supplier to the Client.
1.7 "Price" means the cost of the hire of the Equipment (plus any GST where applicable) as notified by the Supplier and the Client subject to clause 5 of this contract.	The Client undertakes to: (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date) in all respects which the Supplier may reasonably require to: (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register; (ii) register any other document required to be registered by the PPSA; or (iii) correct a defect in a statement referred to in clause 14.10.3(a) or (b);
1.8 "GST" means Goods and Services Tax as defined within the 'A New Tax System (Goods and Services Tax) Act 1999' (Cth).	(b) indemnify, and to reimburse, the Supplier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Equipment charged thereby;
1.9 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for, or accepts delivery of, the Equipment.	(c) register a financing change statement in respect of a security interest without the prior written consent of the Supplier;
2. These terms and conditions may only be amended with the consent of both parties in writing. Any inconsistency with any other document or contract between the Client and the Supplier.	(d) not register, or permit to be registered, a financing statement or financing change statement in relation to the equipment in favour of a third party without the prior written consent of the Supplier;
2.1 The Client acknowledges and accepts that the supply of Equipment on hire is not available and if, for any reason, the Equipment is not or ceases to be available, the Supplier reserves the right to substitute comparable Equipment (or components of the Equipment) and vary the Price as per clause 5.2.	(e) the Supplier and the Client agree that sections 95, 116 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions;
2.2 Electronic signatures shall be accepted by either party providing that they have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.	(f) The Client waives their rights to receive notices under sections 95, 116, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
2.3 The Client acknowledges and accepts that the Supplier shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):	(g) The Client waives their rights as a grantor and/or a debtor under section 142 of the PPSA.
(a) resulting from an inadvertent mistake made by the Supplier in the formation of this contract; and	(h) Unless otherwise agreed to in writing by the Supplier, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
(b) contained in/omitted from any literature (hard copy and/or electronic) supplied by the Supplier in respect of the Equipment hire and/or services;	(i) The Client must immediately ratify any actions taken by the Supplier under clauses 10.3 to 10.5.
(c) in the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or willful misconduct of the Supplier; the Client shall not be entitled to treat this contract as repudiated nor render it invalid.	(j) Subject to any express provisions to the contrary (including those contained in this clause 10), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
2.4 Change in Control	Security and Charge
The Client shall give the Supplier not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number, or business practices). The Client shall give the Supplier any loss incurred by the Supplier as a result of the Client's failure to comply with this clause.	In consideration of the Supplier agreeing to supply Equipment, the Client agrees that the Supplier has an interest in the equipment, charges, owned by all of its rights, title and interest (whether joint or several) in and over the equipment, and other assets capable of being charged, charged by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
2.5 At the Supplier's sole discretion a deposit (in the form of a bond) shall be required at the commencement of this contract, which shall be refunded to the Client by the Supplier (30) days of the return of the Equipment, provided that the Client has complied with their obligations hereunder. The Client agrees to use any such applicable charges payable by the Client under clause 13.2, and any outstanding balance thereof shall be due as per clause 5.4.	The Client indemnifies the Supplier from and against all the Supplier's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Supplier's rights under this clause;
2.6 At the Supplier's sole discretion a non-refundable deposit may be required where the Supplier is to supply Goods on sale.	(a) The Client irrevocably appoints the Supplier and each director of the Supplier as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf in relation to the PPSA;
2.7 Any discount applied to the invoice will come null and void if payment is not made by the due date stated on the invoice and/or statement.	Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)
2.8 Time for payment for the Equipment being the essence, the Price will be payable by the Client on the date/s determined by the Supplier, which may be:	The Client must inspect the Equipment on delivery and must within forty-eight (48) hours of delivery (or seven (7) days for Goods sold not by the Supplier) in writing, to the Supplier, any quantities, shortages in quantity, or failure to comply with the description or quality. The Client must notify any other alleged defect in the Equipment as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow the Supplier to inspect the Equipment.
(a) on delivery of the Equipment; or	Under applicable State, Territory and Commonwealth Law (including without limitation the CCA), certain statutory implied warranties and conditions (including, without limitation, the statutory guarantees under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).
(b) for approved Clients made by instalments in accordance with the Supplier's instalment financing terms; or	The Supplier acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
(c) the date specified on any invoice or other form as being the date of payment; or	Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, the Supplier makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Equipment. The Supplier's liability in respect of these warranties is limited to the fullest extent permitted by law.
(d) failing any notice to the contrary, the date which is fourteen (14) days following the date of any invoice given to the Client by the Supplier.	If the Client is a consumer within the meaning of the CCA, the Supplier's liability is limited to the extent permitted by section 64A of the CCA.
2.9 Payment may be made by cheque, electronic/on-line banking, or by any other method as agreed to between the Client and the Supplier.	If the Supplier is required to rectify, re-supply, or pay the cost of re-supplying any services or Equipment under this clause or the CCA, but is unable to do so, then the Supplier may refund any money the Client is entitled to receive under the CCA, but only to the extent that such refund shall take into account the value of any services or Equipment and consumables which have been provided to the Client which were not defective.
2.10 The Client shall not be entitled to set off against, or deduct from the Price, any sums or amounts owing to the Client by the Supplier nor to withhold payment of any invoice because part of that invoice is in dispute.	(a) limited to the value of any express warranty or warranty card provided to the Client by the Supplier at the Supplier's sole discretion;
2.11 Unless otherwise stated the Price does not include GST which may be payable. In addition to the Price the Client must pay to the Supplier an amount equal to any GST the Supplier must pay for any supply by the Supplier under this or any other contract for the hire of the Equipment. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.	(b) limited to any warranty to which the Supplier is entitled, if the Supplier did not manufacture the Equipment;
2.12 Where the Equipment does not have a timing device installed hire charges shall commence from the time the Equipment departs from the Supplier's premises and will continue until the return of the Equipment to the Supplier's premises, and/or until the expiry of the Minimum Hire Period, whichever is longer.	(c) otherwise negated absolutely by 12.7 but subject to the CCA, the Supplier shall not be liable for any defect or damage which may be caused or partly caused by, or arise as a result of:
2.13 The date upon which the Client accepts of termination shall in all cases be treated as a full day's hire.	(a) the Client failing to properly maintain or store any Equipment;
2.14 Off-hire receipts will only be issued when the Equipment has been either collected by the Supplier, or returned to the Supplier's premises.	(b) the Client interfering with the equipment in any way without the Supplier's written approval to do so;
3. Delivery	(c) the Client using the Equipment for any purpose other than that for which it was designed;
3.1 Delivery ("Delivery") of the Equipment/Goods is nominated occur at the time that the Client or the Client's nominated carrier takes possession of the Equipment at the Supplier's premises and until the Client returns it to the Supplier's premises.	(d) the Client continuing the use of the Equipment after any defect becomes apparent and the defect would have been apparent to a reasonably prudent operator or user;
3.2 At the Supplier's sole discretion the cost of Delivery is either included in the Price or is in addition to the Price.	(e) the Client failing to follow any instructions or guidelines provided by the Supplier;
3.3 Where the Supplier is to deliver the Equipment the Client shall make all arrangements necessary to take delivery of the Equipment whenever it is tendered at the Client's premises and shall be unable to take delivery of the Equipment as arranged then the Supplier shall be entitled to charge a reasonable fee for redelivery.	(f) the Client being the driver or accident, or act of God.
3.4 Risk to Equipment	Client's Responsibilities
The Supplier retains property in the Equipment nonetheless all risk for the Equipment passes to the Client on Delivery.	The Client shall: (a) ensure that all persons moving the Equipment are suitably instructed in the safe and proper transportation, movement and/or stacking of the Equipment;
3.5 The Client accepts full responsibility for the safekeeping of the Equipment and indemnifies the Supplier for all loss, theft, or damage to the Equipment whatsoever caused and without limiting the generality of the foregoing, to the extent that such loss, theft, or damage is attributable to any negligence, failure, or omission of the Client.	(b) maintain the Equipment as is required by the Supplier;
3.6 The Client will insure, or self-insure, the Supplier's interest in the Equipment against physical loss or damage including but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will affect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.	(c) notify the Supplier immediately by telephone of the full circumstances of any breakage or accident. The Client is not to be liable for the requirements to safeguard the Equipment by giving such notification;
3.7 The Client accepts full responsibility for and shall keep the Supplier indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses (including any injury to persons, death, damage to property, or otherwise arising out of the use of the Equipment during the hire period and whether or not	(d) satisfy itself at commencement that the Equipment is suitable for its purposes;
4. Insurance	(e) operate the equipment safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instruction whether supplied by the Supplier or posted on the equipment;
4.1 The Client will insure, or self-insure, the Supplier's interest in the Equipment against physical loss or damage including but not limited to, the perils of accident, fire, theft and burglary and all other usual risks and will affect adequate Public Liability Insurance covering any loss, damage or injury to property arising out of the Equipment. Further the Client will not use the Equipment nor permit it to be used in such a manner as would permit an insurer to decline any claim.	(f) not permit the Equipment to become contaminated by any toxic materials, or to be used in contact with dangerous substances;
4.2 The Client accepts full responsibility for and shall keep the Supplier indemnified against all liability in respect of all actions, proceedings, claims, damages, costs and expenses (including any injury to persons, death, damage to property, or otherwise arising out of the use of the Equipment during the hire period and whether or not	(g) comply with all work health and safety laws relating to the Equipment and its use;

Please note that a larger print version of these terms and conditions is available from the Supplier on request.