

# TERMS AND CONDITIONS OF RENTAL

## DOCUMENT VERSION 3.3 REVISED JULY 1998

### INSPECTION

The customer agrees that the equipment supplied is in good order and suitable for their use and that they are familiar with its operation.

- The Customer agrees that he has inspected the equipment and is satisfied that:
  - The equipment is in working order, and
  - He understands the proper uses for which the equipment is designed and the safe operation of such equipment.
  - The customer acknowledges that the Customer has not relied upon the skill or judgement of ProCam in entering into this contract.

### PAYMENT

The customer agrees to pay rental charges until the equipment is returned.

- The Customer will pay to ProCam rental charges at the rate and in the manner specified on the front hereof from the time when the equipment leaves the premises of ProCam until the equipment is returned to such premises subject always to clause 6(3) or clause 11(3) hereof as applicable.

### LATE RETURN

The customer agrees to return the equipment on time or pay extra rental charges.

- The Customer agrees to return the equipment by no later than the time and date specified under the words "Client will return before" on the reverse of this form. If the equipment is not returned by the time and date so specified, the Customer shall pay additional rental charges at the daily rate specified on the front hereof from such date to the date when the equipment is actually returned to, or collected by ProCam subject always to clauses 6(3) or 11(3) hereof as applicable.

### BREAKDOWN

The customer shall notify ProCam of any breakdown and not attempt repairs.

- The customer shall notify ProCam immediately upon Customer becoming aware of any equipment shortage or malfunction, howsoever arising.
  - The Customer will not interfere in any way with any mechanical fittings or appliances attached to or forming part of the goods or, without the written consent of ProCam, have any repairs effected thereto by any person other than an employee of ProCam or such person as ProCam may nominate.

### DAMAGE

The customer agrees to pay for damage to the equipment.

- In the case of damage or injury (by fire, storm or through any cause whatsoever) to the equipment rented in circumstances where ProCam is of the opinion that the damage or injury was caused or contributed to by:
    - the equipment being used for purposes for which it was not designed;
    - the customer or any other person attempting to repair the equipment without the prior consent of ProCam.
    - any negligence by or on the part of the Customer and/or his servants or agents: or
    - accident or misuse or abuse of the equipment;then the customer shall pay on demand the cost of repairs to the equipment unless in the opinion of ProCam the equipment is unable to be repaired in which event the provisions of clause 11(2) shall apply as if the equipment had been stolen or lost.
  - It is agreed that for the purposes of this clause and of clause 6(2) and 6(3) the cost of repair or of replacement as the case may be and any charges payable pursuant to clause 5(3) or clause 6(3) may be deducted from the deposit and the Customer shall pay the excess to ProCam on demand.
  - The Customer shall also pay to ProCam on demand a sum equal to the rental charges which ProCam could have obtained for the period from the date of commencement of the rental of the equipment damaged or injured to the date of receipt by ProCam of Payment of the repair charges pursuant to clause 5(1) or the replacement costs in accordance with clause 6(2) and incidental charges LESS any rental charges actually received by ProCam.

### COMPENSATION

The customer agrees to pay for the cost of equipment lost or stolen.

- Where any equipment rented is stolen or is otherwise lost (whether by fire or through any other cause whatsoever) the Customer shall, whether or not the Customer has been negligent.
  - notify ProCam of the theft or loss immediately upon becoming aware thereof;
  - pay to ProCam on demand an amount equal to the cost of replacing the equipment stolen or lost PROVIDED THAT:
    - Where ProCam is unable, after making reasonable enquiries in the trade in Brisbane to purchase equipment of an equivalent standard and condition to the stolen or lost equipment THEN the Customer shall pay to ProCam on demand the cost of purchasing new equipment of the same make and model as the stolen or lost equipment or
    - Where ProCam is unable, after making reasonable enquiries in the trade in Brisbane, to purchase new equipment of the same make and model as provided in paragraph 2(a) of this clause THEN the customer shall pay to ProCam on demand the cost of purchasing new equipment which most nearly equals the performance of, and is of similar quality and function to the stolen or lost equipment PLUS all incidental charges which ProCam may incur including the cost of altering the equipment to fit peripheral equipment and to comply with standard protections.
    - Provided there has not been negligence on behalf of ProCam, then pay to ProCam on demand a sum equal to the rental charges which ProCam could have obtained for the period from the date of commencement of rental of the stolen or lost equipment to the date of receipt by ProCam of payment of the full amount provided for in paragraph 2(a) or 2(b) of this clause 6 as applicable, LESS any rental charges actually received by ProCam.
- Notwithstanding anything contained in these conditions where any discount is allowed by ProCam to the Customer, rental charges at the full rate will apply if the payment of the amount stated on the front hereof is not received within 14 days of the proposed return date, or as otherwise stated on the front hereof.

### INDEMNITY

The customer is responsible for accidents caused by use of the equipment.

- The Customer indemnifies, and keeps indemnified, ProCam in respect of its liability for personal injuries, property damages and any associated legal expenses arising out of any accident which might be caused by or contributed to by, or arise out of the use, operation or handling of the equipment during the term of rental.
- INSURANCE**  
Provided that Insurance has been paid the customer is responsible for only the first \$1,000 of any loss or damage EXCEPT where due to water damage, theft from vehicles or other exclusions.
- Where the customer has paid the Insurance charges specified on the reverse hereof then the customers liability under Clauses 5(1), 5(2), 6, and 7 shall be limited to the sum of \$1,000 EXCEPT where the damage or loss occurs as a result of: water damage, theft from unattended motor vehicle, or other exclusion under the Insurance policy then in place.

### RECOVERY OF EQUIPMENT

ProCam has the right to recover its own equipment if charges are not paid.

- If the Customer does not return the equipment at the end of the term of rental, or if the Customer shall fail to pay any rental charges within (7) days after the proposed return date or shall fail to observe and perform these conditions or if the Customer shall do or permit any act or thing whereby ProCam's rights on the equipment may be prejudiced ProCam may, notwithstanding any waiver or some previous default, forthwith without notice to the Customer retake possession of the equipment and for that purpose enter into or upon the job address or such other premises where the same may be without prejudice to the rights of ProCam to recover from the Customer any monies due hereunder or damages for breach hereof and the Customer indemnifies ProCam in respect of any legal claims arising out of action taken pursuant to this clause.

### GENERAL OBLIGATIONS OF CUSTOMER

The customer agrees that the equipment remains the property of ProCam and that they will not dispose of it or take it outside Queensland without permission. The customer agrees to use the equipment carefully, keep it safe and return it in good order. The customer is responsible for delivery and pickup.

- Unless otherwise agreed between the Customer and ProCam, the Customer shall be responsible for the cost of the pickup and delivery of the equipment to ProCam.
  - The Customer acknowledges that all equipment rented remains the property of ProCam at all times and the Customer will not sell, charge, pledge or part with possession of the equipment.
  - The Customer acknowledges having received the equipment in good working order and condition and the Customer will use the equipment in a careful and proper manner and permit only skilled and experienced personnel to use the equipment and will not use the equipment in connection with any dangerous or hazardous activity.
  - The Customer shall not take equipment outside the State of Queensland or Australia without the prior consent of ProCam.
  - In the event that the departure or return of the equipment is delayed by reason of intervention of Customs or other Authorities of any country no allowance or credit will be given to the Customer for or against rental charges.

### SUBSTITUTION

ProCam may supply other equipment than the model specified.

- ProCam reserves the rights to substitute suitable alternative equipment to that reserved by the Customer at any time prior to or during the period of rental.

### LEGAL PROVISIONS

Except for the rights given to customers under Government Legislation, the only valid terms and conditions for rental are those contained in this document. In the event of any failure, ProCam's liability is limited to the cost of the supply of hire equipment.

- In the event that the supply of services pursuant to this contract is a supply of services as defined in the Trade Practices Act, 1974 ("the Act") then to the extent the Act permits the supplier to limit its liability for a breach of a condition or warranty implied by the Act, the supplier's liability for such breach shall be limited to the supplying of the services again or the payment of the cost of having the services supplied again.
- Certain legislation (including the Trade Practices Act, 1974 as amended) has the effect of giving a customer certain rights which cannot be excluded, restricted or modified by agreement. The provision in the agreement must therefore be read having regard to such legislation to the extent that it may be applicable and nothing in this agreement shall have the effect of excluding, restricting or modifying such rights.
  - Subject to the rights so conferred upon the Customer and the restrictions so imposed upon ProCam (to the extent that such rights and restrictions may be applicable) as set out in paragraph a):
    - Representations and agreements not expressly contained therein or incorporated herein by reference shall not be binding upon ProCam as conditions, warranties or otherwise.
    - All conditions, warranties and representations on the part of ProCam whether expressed or implied, statutory or otherwise, whether collateral or antecedent hereto or otherwise are hereby expressly excluded.
    - This agreement constitutes the whole of the agreement and understanding between the parties with respect to the subject matter hereof and all additions and modifications to this agreement shall be in writing and shall be signed by both parties.
    - ProCam shall be under no liability to the customer for any loss (including but not limited to loss of profits and consequential loss) or damage to persons or property or death or injury caused by any act or omission by ProCam, its servants or agents, or any other person in any way related to or arising out of the supply or non-supply or performance of anything or any service provided for or contemplated by or in pursuance of this agreement (including negligent acts or omissions).
- In the event that the supply of goods pursuant to this agreement is a supply of goods as defined in the Trade Practices Act, 1974 as amended ("the Act"), nothing contained in this agreement excludes, restricts or modifies in relation to this agreement and the goods supplied hereunder any condition, warranty, right or remedy which, pursuant to the Act, applies to this agreement or is conferred on the customer provided that to the extent the Act permits ProCam to limit its liability for a breach of a condition or warranty implied by the Act, then the liability of ProCam for such breach shall be limited to the payment of the cost of replacing goods or acquiring equivalent goods.