

TERMS AND CONDITIONS

1. INTERPRETATION

- 1.1** In these Conditions of Hire:
- (a) "Agreement" means the agreement between Victorian Temporary Fencing (VTF) ABN 54 149 623 737 and the Customer for hire of the fencing including these Conditions of Hire;
- (b) "Fencing" means all fencing including panels, gates and other fencing components supplied to the Customer pursuant to the Agreement;
- (c) "Hire Period" and "Minimum Hire Period" have the meanings ascribed to them in Condition 3; and
- (d) "Site" means the land or premises located at the address set out in Item 4 on which the Fencing is to be installed.
- (e) "Pursuant to the *A New Tax System (Goods and Services Tax) Act 1999* ("GST legislation")", when a supply is made under this agreement by either party, the party which made the supply may in addition to the amount payable under this agreement but subject to having issued a valid tax invoice (as required by the GST legislation), recover from the other an additional amount on account of GST such amount to be calculated in accordance with the GST legislation
- 1.2** References to Item numbers in this Agreement are references to the corresponding Item on the first page of this agreement.
- 1.3** Headings are for convenience only and do not affect the interpretation, or form part, of this Agreement.

2. PAYMENT

- 2.1** VTF will invoice the Customer immediately for the hire of the Fencing for the Minimum Hire Period as set out in Item 5 in advance and thereafter, at the hire charge rates set out in Item 8. All other charges payable by the Customer in advance by way of Credit Card debit (unless otherwise approved) will be invoiced as and when they are incurred.
- 2.2** All invoices will be sent to the Billing Address set out at Item 1.
- 2.3** The Customer must pay the hire charge for the Minimum Hire Period, including the Site allowance and any other amounts payable if any, in full within the terms as specified in Item 7 or unless otherwise agreed by VTF and the Customer in writing
- 2.4** The customer agrees to pay VTF interest on all overdue balances at a rate of 12% per annum charged daily. The customer will also be liable for any additional legal costs incurred as a result for pursuant for any arrears.
- 2.5** Any signatory for a proprietary Company applicant shall be personally liable for the due performance of the applicant's obligations as if the signatory was the applicant.

3. HIRE PERIOD

- 3.1** The Hire Period will commence upon the Start Date set out in Item 3 and continue for the period set out in Item 5 and any extensions of that period as set out in Item 8 or as agreed by VTF and the Customer in writing
- 3.2** The Minimum Hire Period is one month or unless otherwise agreed between VTF and the Customer.

4. DELIVERY, INSTALLATION AND REMOVAL

- 4.1** VTF will arrange delivery of the Fencing to the Site and will install the Fencing approximately in accordance with the Customer's sketch or verbal directions. The Customer acknowledges that VTF may need to alter the position of the Fencing to accommodate services to the Site or other obstacles.
- 4.2** VTF will remove all the Fencing at the end of the Hire Period or unless VTF and the Customer agree in writing to extend the initial Hire Period.
- 4.3** The Customer may request VTF to install additional Fencing or to remove part of the Fencing before the expiration of the Hire Period, subject to payment of the extra charges described in Condition 5.
- 4.4** If VTF is delayed from delivering or removing the Equipment from any location for any reason beyond its reasonable control, it may charge the Hirer additional delivery charges. The additional delivery charges will be calculated for every period of 15 minutes (or part) waiting time at the rate published on VTF's website www.victoriantemporaryfencing.com.au from time to time.
- 4.5** No refunds are applicable in the event that the Fencing is returned prior to the expiration date of any Hire Period.
- 4.6** **Same-Day Installation and Cancellation Policy:** In the event that a customer directs our installers to have the fence removed or changed on the day of installation or subsequently cancels or changes the order while the installation is in progress, the customer will be liable for a cancellation fee. This fee is calculated as follows:
- 1) A minimum charge of \$500 for up to 30 meters of fence installed.
 - 2) For installations exceeding 30 meters, an additional charge of \$15 per meter of fence installed will apply.
 - 3) Any installed braces will be charged at \$15 per brace.

5. EXTRA CHARGES

- 5.1** Additional Fencing requested by the Customer will be charged for at the extra hire rates set out in Item 7. The removal of Fencing will not excuse the Customer from the payment of the agreed hire charges for the Fencing.
- 5.2** The Customer will pay VTF the cost of labour (including travel time) for the installation or the removal of any Fencing at the hourly rate set out in Item 7.
- 5.3** The Customer will pay VTF a minimum of \$150.00 plus GST to remove part/s of the Fencing prior to the expiration of the Hire Period and to provide any additional Fencing less than 25 metres or unless otherwise agreed by VTF and the Customer in writing.
- 5.4** An administrative fee of \$50.00 plus GST is applicable on all invoices relating to extra fencing, contract extensions and charges relating to damage and/or replacement of fencing materials. (Where automatic debit has not been established).

6. MOVEMENT OF FENCING

- 6.1** The Customer may at its own risk move or alter the position of the Fencing on the site. VTF accepts no responsibility for any loss or damage, howsoever arising, as a result of any movement of, or alteration to, the Fencing after installation by VTF or its representatives
- 6.2** The Customer will pay VTF a minimum rate of \$5.00 plus GST per metre for any relocation of Chainmesh Fencing or minimum rate of \$10.00 plus GST per metre for Timber Hoarding during the Hire Period or thereafter.

7. LOSS AND DAMAGE

- The Customer is responsible for theft and damage to the Fencing and/or its components while on hire and the cost of replacement or repairs to such will be charged to the Customer as required on demand the cost of replacement or repair of the Equipment calculated in accordance with VTF- Damaged & Lost Equipment Schedule as published on VTF's website www.victoriantemporaryfencing.com.au from time to time. In no circumstances will title to the Equipment or any part of it pass to the Hirer.
- 7.1** The Customer will pay VTF for repainting Timber Hoarding for graffiti and poster bill repairs at \$10.00 per metre plus GST for 1.8 metre high panels and \$12.50 per metre plus GST for 2.4 metre high panels. The Customer is responsible for all repairs to Fencing or products required for Fencing Hire.
- 7.2** In addition to any other obligation the Hirer may have to VTF, the Hirer will be liable for all losses including consequential losses, incurred by VTF arising out of the Equipment not being Returned within business hours. This clause in no way limits any liability the Hirer has to VTF.
- 7.2.1** Where a waiver charge has been charged to the Hirer VTF agrees to waive its rights to claim for loss or damage caused by theft, burglary, fire, storm, accident or collision to the Equipment caused by if:
- 1) VTF is provided with a police report confirming the circumstances of the loss and:
 - a) the Hirer has taken adequate precautions to safeguard the Equipment;
 - b) subject to the Hirer paying an excess being \$500 for accidental loss and \$1000 for accidental damage.
 - 2) Expressly excluded from this waiver is loss or damage caused by:
 - a) loss or damage due to misuse, abuse, or use of the Equipment in contravention of the Terms and Conditions of Hire;
 - b) loss or damage to items on which the waiver premium is not charged or where it has been charged but not paid;
 - c) theft of the Equipment unless reasonably secured, mysterious disappearance or wrongful conversion of the Equipment;
 - d) loss or damage during transport except where transported by VTF; and
 - e) incidental costs associated with transport and labour for replacement materials to make good if required.

8. CUSTOMER'S OBLIGATIONS

- 8.1** The Customer will:
- (a) Prior to the installation of the Fencing notify VTF of the position of any services on the Site including but not limited to telephone, gas, sewerage, water, and electricity.
 - (b) Accept full responsibility for the safe-keeping of the Fencing, and except as specified hereafter, indemnify VTF for all loss, theft of or damage to the Fencing however caused and without limiting the generality of the foregoing whether or not such loss, theft or damage is attributable to any negligence, failure or omission of the Customer.
 - (c) Accept full responsibility for and indemnify VTF against all claims in respect of any injury to persons, or loss or damage to property, arising out of the possession or use of the Fencing during the Hire Period however arising, whether from the negligence of the Customer or VTF or other party and without limiting the generality of the foregoing whether or not the Fencing was being operated by a servant of Customer or any person for whose acts VTF might be or is held to be responsible in connection with the use of the Fencing.
 - (d) Not be entitled to claim any lien over fencing nor sell, transfer, mortgage, charge or encumber in any way the Fencing nor, without VTF's prior written consent, part with the possession of the fencing nor assign the benefit of this Agreement
 - (e) Not be entitled to remove the Fencing from the Site or allow it to be removed without VTF's written permission.
 - (f) Ensure that the Fencing is returned to VTF in the same condition as it was delivered, fair wear and tear only excepted
 - (g) Except as provided in this Agreement not move or in any other manner interfere with the Fencing, and

- (h) Pay to VTF all hire and related charges and other costs as stipulated in accordance with the VTF's payment terms as set out in these Conditions of Hire.
- 8.2** VTF may inspect the Fencing from time to time during the Hire Period and the Customer shall permit or procure permission for representatives of VTF to enter the Site.
- 8.3** Engineering certificates will be obtained as required but will not be released to the customer until full payment is received in accordance with agreed trading terms.

9. TERMINATION OF HIRE

- 9.1** Without prejudice to any other remedies available to VTF and notwithstanding the agreed Hire Period, VTF may terminate the Agreement without notice to the customer if the customer:
- a) Breaches any of these Conditions of Hire: or b) has a winding up petition presented against it, it is wound up, goes into voluntary liquidation, commits an act of bankruptcy has a receiver appointed to its assets or any of them makes an assignment or compromise for the benefit of its creditors, is placed under official management or ceases to carry on business.
- 9.2** Upon termination of this Agreement, VTF shall be entitled to take possession of the Fencing and for this purpose the Customer irrevocably authorises VTF or its representatives to enter onto the Site and agrees to indemnify VTF in respect of any claims, damages and expenses associated with the recovery of the Fencing.
- 9.3** VTF shall be entitled to take possession of the Fencing without authority of the Customer if the Customer fails to comply with payment terms as described in Condition 2.

10. EXCLUSION OF CONDITIONS AND WARRANTIES

The provisions in these Conditions of Hire that exclude or limit VTF's responsibility shall apply only to the extent permitted by law. This Agreement must be read and constructed subject to those conditions and warranties that are implied into the Agreement by the Trade Practices Act, 1974 (as amended) and State legislation and which cannot be excluded.

11. EXCLUSION OF LIABILITY

VTF and the Customer agree that in the event of the Customer suffering any loss, damage or claim, howsoever arising, as a result of hiring the Fencing the liability of VTF is limited at its option to the repair or replacement of the Fencing or the cost of repair or replacement and is not to include economic or consequential damages of any nature whatsoever.

12. TAXES AND STAMP DUTIES

The Customer will pay VTF on demand the amount or amounts of any and all stamp duties and other charges which are, or may at any time in the future be, imposed, charged or payable in respect of this Agreement or the payment of any hire charges under this Agreement. To extent that the hire charges include amounts calculated in respect of stamp duty, those amounts shall constitute payment on account of such stamp duty.

13. CHANGES TO TERMS AND CONDITIONS

- 13.1** VTF may amend these Terms and Conditions at anytime by publishing the amendments on its website www.victoriantemporaryfencing.com.au or otherwise notifying the Hirer
- 13.2** The amended terms and conditions will apply to any hire of Equipment from the time the amendments are published on VTF's website www.victoriantemporaryfencing.com.au or otherwise notified to the Hirer. Any such amendment will not affect the validity or enforceability of the agreement between VTF and the Hirer in any way.

14. MISCELLANEOUS

- 14.1** The person signing this Agreement for and on behalf of the Customer hereby covenants with VTF that he or she has the authority of the Customer to make this Agreement on the Customer's behalf and is empowered by the Customer to bind the hirer to this Agreement and hereby and indemnifies VTF against all losses and costs incurred by VTF arising out of the person so signing this agreement not in fact having such power and/or authority.
- 14.2** Termination of the Hire Period shall not affect any of the Conditions that are expressed or implied to operate or have effect after termination.
- 14.3** Time is of the essence of all obligations of the Customer in these Conditions.
- 14.4** In the event of extreme weather conditions causing VTF to relocate Fencing or make repairs to Fencing, the Customer will be charged a minimum fee of \$150.00 plus GST and if required any additional charge relating to relocation of Fencing as described in Condition 6.2 and any repairs as described in Condition 7.2 and Condition 7.3.
- 14.5** All prices are subject to change and may increase without notice.