

TERMS OF TRADE

1. **What is the purpose of this agreement?**
- 1.1 This agreement sets out the terms that apply to the relationship between you (and "you") and **Livewire Audio Visual Limited** trading as Livewire, Livewire AV, Livewire Events and Groove ("we", "us" and "our").
2. **What information about you can we collect?**
- 2.1 You agree to provide us with and allow us to use all information necessary to give effect to this agreement, the provision of our goods and performance of our services.
- 2.2 Unless your consent is withdrawn in writing, you agree to the disclosure of information:
 - to give effect to our goods and services;
 - to enforce our obligations under this agreement or an additional agreement;
 - when authorised by you or required by law;
 - to assess credit worthiness; and
 - to market any of our goods and services.
- 2.3 We will comply with the Privacy Act 1993. We will not use your information unless we have reasonably ensured it is accurate, complete, relevant and not misleading. If we give your information to another entity we will do everything reasonably within our power to prevent unauthorised use or disclosure of your information. You may access any of your information and ask us to correct any mistakes.
3. **What are our goods and services?**
- 3.1 "Good(s)" and "service(s)" means and includes without limitation:
 - all parts, components, machines, products, equipment, units and materials (whether separate or attached to something);
 - design, manufacture, supply, production, hire, delivery, installation, advice, repairs and maintenance; and
 - agency fees, charges and out of pocket expenses incurred by us,identified in any document or electronic record issued by either party (all of which are deemed to be incorporated into and form part of this agreement) or identifiable as ours by marking or a manner of storage enabling identification.
4. **What is the price?**
- 4.1 The price is the cost of the goods and services as agreed between you and us from time to time subject to GST and out of pocket expenses such as freight. If no price is stated, the price will be the cost that we provide the goods and services at the time of your order. The price is subject to reasonable change due to circumstances beyond our control.
- 4.2 Labour costs are determined on actual hours spent.
- 4.3 Delivery charges are estimates only and will be charged on the actual number of deliveries requested.
5. **What happens when we give you a quote?**
- 5.1 If we give you a quote for goods and services:
 - the quote will be valid for fourteen (14) days from the date of issue;
 - it will be exclusive of GST and delivery costs, unless stated otherwise;
 - you will be responsible for increased costs or receive the benefit of decreased costs resulting from any subsequent changes to the quote due to any inadequate or inaccurate information at the time of submission, request/requirement for additional goods and services, or alterations; and
 - we may alter the quote due to circumstances beyond our control or clerical or computer error.
6. **When and how do you pay us?**
- 6.1 Subject to 6.2, you agree to pay us in full:
 - a deposit;
 - the balance of the price on or before the 20th day of the month following the date of our invoice, unless stated otherwise or paying by cash where payment is required on delivery/pick up;
 - a storage fee per week/part week for any goods that remain on our premises sixty (60) days after you have been notified that work is complete;
 - interest on any amount you owe after the due date at a rate of 2.5% per month or part month;
 - expenses incurred as a result of enforcing any of our rights contained in this agreement including PPSR, debt collection, legal fees and collection fee at the expiry of a hire period; and
 - without set-off, deduction or counterclaim.
- 6.2 You agree to us allocating or reallocating any payment received from you towards any invoice. If no allocation is made then it is deemed to be in such a way that preserves the maximum value of our purchase money security interest in the goods.
- 6.3 If you have given a credit card or direct debit authority, we may debit fees and charges. We may require a credit card retention and all payments by credit card will incur a surcharge of 2.5% of the value of the invoice.
- 6.4 You will be responsible for payment if a third party that you expect to pay you or us fails to pay.
- 6.5 We may require progress payments and invoice by payment claims under the Construction Contracts Act 2002.
7. **What warranties apply?**
- 7.1 Manufacturers' warranties, third party warranties and any warranties provided by us in writing.
- 7.2 Samples shown to you may not be identical to goods supplied to you. This may be the case if a model is discontinued or replaced. In the event goods cannot be obtained, we may provide substitute goods to ensure we can carry out the services.
- 7.3 If you are in trade and/or are a business, you agree that the parties contract out of the Fair Trading Act 1986 and Consumer Guarantees Act 1993 to the extent permissible by law.
- 7.4 We are not liable for delay or failure to perform our obligations if the cause is beyond our reasonable control, for example due to malfunction or failure of the goods. We will not be liable for any loss or damage suffered by you or claim made against you in connection with any failure or malfunction of the goods outside of our control.
- 7.5 Subject to 7.1-7.4, if we are deemed liable to you for loss or damage of any kind, arising from provision of goods and services to you, including consequential loss, whether suffered or incurred by you or another person or entity and whether in contract tort or otherwise, then you agree that our total liability is limited to the value of the goods and services provided to you.
8. **What if an issue arises in relation to any goods?**
- 8.1 Goods that are supplied on indent, special order, or are custom made or exported cannot be returned. Return of all goods are subject to warranties under 7 and terms of hire under 12.
- 8.2 If you wish to return goods due to incorrect ordering, a \$15 restocking fee per item may apply.
- 8.3 If a dispute arises between the parties either party must notify the other within seven (7) days of delivery or installation (if part of our service). However, if the dispute relates to delivery, such as incorrect or short supply, then you must notify us within forty-eight (48) hours. Non-notification is deemed to be acceptance of the goods.
- 8.4 Any goods the subject of 8.1-8.3 must not be destroyed or removed until we have inspected the goods or required they be returned to us.
9. **When are we responsible for the goods?**
- 9.1 We are responsible for goods until they are delivered, installed or picked up, whichever applies.
- 9.2 Delivery is complete when we give the goods to you or another person/entity who will give the goods to you or when we leave the goods on your premises. We will use our best reasonable endeavours to provide our goods and services on the agreed date and time. The time and date of provision is an estimate only and not an essential term of our agreement. Delays in delivery may occur due to overdue accounts, items on back order or transportation delays. We may partially deliver goods listed in one order or invoice without added cost to you. If the parties agree on delivery by instalments and we fail to deliver an instalment, the failure will not give rise to a right of cancellation.
- 9.3 Risk for the goods lies with us until delivery, installation or pick up in accordance with 9.1, whichever applies. After this point you are responsible for the goods including insurance, loss, theft, damage or destruction to the goods including any costs to remedy the same.
10. **What ownership and security rights do we have?**
- 10.1 We retain ownership of and hold a security interest in all goods until you have paid us in full for all goods and services provided to you. While we retain ownership, you will store all goods in such a way that our interests are protected and they can be identified as provided by us.
- 10.2 You agree that we hold security interest in all of your present and after acquired property connected with goods and services provided to you, and:
 - authorise us to register a financing statement and charge on the Personal Property Securities Register, and provide all information and signatures necessary to effect the same;
 - will not register a financing charge or statement or charge demand in respect of goods without our prior written consent;
 - waive your entitlement under s 148 of the Personal Property Securities Act 1999 (PPSA) to receive a copy of a verification statement where we have registered our interest;
 - that both parties contract out of ss 114(1)(a), 133 and 134 of the PPSA;
 - waive your rights as listed under s 107(2) of the PPSA; and
 - to give us fourteen (14) days prior written notice of any proposed change in your name or details such as contact information.
- 10.3 We own all existing and new intellectual property rights connected to the goods and services. You fully indemnify us for any intellectual property infringements we may make when acting in accordance with your instructions. You may use the goods only if paid in full and for the purpose for which they were intended and supplied by us.
- 10.4 You agree that your failure to pay for the goods and services by the due date gives rise to a legal or equitable estate or interest in your land on which the goods and services were carried out and affixed and that the interest entitles us to register a caveat against your land.
11. **For what are you responsible?**
- 11.1 You are responsible for ensuring that all:
 - sites where our services are being carried out comply with all relevant health and safety regulations, requirements and law;
 - plans and reports on which we base our services are accurate and complete. We are not liable for errors in or variations and additions to our work where such is the result of inaccuracy or incompleteness and you will be responsible for the cost of additional goods and services required to remedy any issues;
 - utility services, cables and inputs are marked or easily visible (unforeseen loss or damage will not be our responsibility);
 - sites are adequately secured to protect the goods (loss or damage will be your responsibility); and
 - sites where our services are being carried out have a proper means of access.
12. **What if you hire from us?**
- 12.1 The term of hire runs from pick/delivery until return/pick up. If the goods are not returned or made available for pick up then hire charges will continue to accrue until returned to us or picked up by us (a collection fee may apply). The hire period may be reduced by early return of the goods, if this is the case we may reduce the hire charges. We may terminate the hire period at any time due to a material breach of these terms.
- 12.2 If you hire goods from us you agree:
 - to deal with the goods in accordance with all instructions, laws and regulations and not in any way that is detrimental to us;
 - not to assign, sell, sublease, remove, transfer, alter or modify the goods without our prior written consent, subject to 12.2;
 - keep the goods on the agreed hire premises unless you have our prior written consent, subject to 12.2;
 - to maintain goods in the condition to which they were provided, subject to fair wear and tear - reconditioning/renewal/replacement costs may apply;
 - not to remove any sticker from the goods giving notice that the goods are ours;
 - that, subject to any applicable damage waiver under 12.5, you will be liable for any damage to or loss of the goods until returned or replaced - hire charges will accrue until such time;
 - to pay the cost of repairing or replacing the goods if due to fault of your own;
 - that we hold a security interest over any goods hired for a term greater than one year;
 - not to affix any goods with or to anything not supplied by us;
 - that the price to hire will be invoiced at a frequency agreed between you and us;
 - to allow us to periodically inspect, maintain, adjust, test or collect the goods; and
 - you will be solely responsible for insurance against theft, loss or damage unless agreed otherwise in writing.
- 12.3 If we have noted and endorsed you as a trade customer then you are entitled to sublease or lend the goods to your customers within usual business practice except to the extent to which they are varied by the terms of this agreement. If you sublease or lend any goods, please note that you will remain responsible under these terms at all times, including 9.3.
- 12.4 We may, at our expense and if we deem it necessary, maintain the goods and use our best endeavours to repair or replace the same if defective. We may provide substitutes in accordance with 7.3.
- 12.5 We have available and may offer at our discretion an optional waiver for accidental damage to certain hired goods. If the waiver is applied, the hire charge will be increased by a fee. The waiver does not:
 - cover theft or loss;
 - cover damage directly or indirectly resulting from misuse or use contrary to instructions, malice, any deliberate act, negligence or want of care, an act by a third party that is not your employee, or caused other than in the course of proper use;
 - cover damage that occurred at a location that was not the agreed hire premises;
 - apply if we are not notified of the damage within two (2) working days of occurrence;
 - apply if you have breached any of the terms of this agreement;
 - apply to goods valued above \$100,000.00;
 - apply if you fail to return all accessories and manuals in goods order and condition; and
 - apply to any items expressly excluded on the accessory list provided with the goods.
13. **What if you want to cancel an order?**
- 13.1 Indent and special orders cannot be varied or cancelled.
- 13.2 Subject to 13.1, you may cancel an order up to ten (10) working days before the delivery date, however administration costs equal to 20% of the value of the order will apply. If you cancel within ten (10) working days and forty-eight (48) hours of the delivery date, a cancellation charge equal to half of the hire charges will apply. If you cancel within 48 hours of the delivery date, a cancellation charge equal to the full hire charge will apply.
14. **When can a party cancel this agreement?**
- 14.1 Subject to 13.1 and 14.2-14.5, either party may cancel this agreement at any time by giving twenty one (21) days prior written notice.
- 14.2 We have the right by fourteen (14) days prior written notice to suspend or cancel any part of any agreement for the provision of goods and services to you if you default by:
 - failing to pay or indicating you will not pay any sum owing by the due date;
 - any of your creditors seizing or indicating they will seize any goods provided to you;
 - goods in your possession becoming materially damaged while any amount is unpaid;
 - being bankrupted, insolvent, under statutory management or put into liquidation;
 - a receiver being appointed over or a landlord possessing any of your assets;
 - a court judgment entered against you remaining unsatisfied for seven (7) days;
 - breaching the terms of this agreement;
 - providing false or misleading information pursuant to this agreement; and
 - an adverse material change in your financial position.
- 14.3 If you default we may exercise a lien against any goods in our possession.
- 14.4 You agree that if you default and the default is not remedied within fourteen (14) days of occurrence, we may enter any premises occupied by you to inspect or retrieve any goods and may re-sell any goods and credit the net sale proceeds to your account for the invoice value less adjustment for the condition of the goods.
- 14.5 Cancellation under 14.1 or cancellation or suspension under 14.2 will not affect either party's claim for any amount due at the time of cancellation or suspension, damages for any breach of obligations under this agreement and any other legal rights either party may have. Upon cancellation of this agreement any amount owed by you for goods and services provided up to and including the date of cancellation will become due and current orders will terminate.
15. **Does a personal guarantee apply?**
- 15.1 If you are a director of a company or the trustee of a trust:
 - in exchange for us agreeing to supply goods and services and grant credit to the company or the trust, you also sign this agreement in your personal capacity, and jointly and severally personally undertake as principal debtors, to pay everything that the company or trust owes us, and to indemnify us against non-payment and/or default; and
 - any personal liability of you as director or trustee will not exclude the company or trust from the liabilities and obligations contained in this agreement.
16. **What else is agreed?**
- 16.1 A failure by either party to enforce any of the terms of this agreement will not be deemed to be a waiver of any of the rights or obligations under this agreement.
- 16.2 Neither party may assign or transfer their rights or obligations under this agreement to any other without our prior written consent.
- 16.3 If any of these terms are determined to be invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining terms will not be affected.
- 16.4 This agreement supersedes all prior agreements, representations and warranties. Any instructions we receive from you will be subject to this agreement.
- 16.5 Documentation related to this agreement may be served on you by email.
- 16.6 We will notify you of any changes to these terms and post the same on our website. Continued provision of goods and services to you will be subject to your signed or written acceptance of the changes. All other variations must be mutually agreed in writing.
- 16.7 This agreement is governed by the laws of New Zealand.