



Fenton Film Hire Contract Conditions

(These Hire Contract Conditions are subject to change by Fenton Film Hire without notice)

1. Definitions

In these Hire Contract Conditions unless the context otherwise requires:

'Commencement' means the latter of the date of the Hire Agreement or the time of delivery of the Equipment to the Customer;

'Customer' means the person, firm, organisation, partnership, corporation or other entity hiring Equipment from the Owner, as identified in the Hire Agreement

'Equipment' means all equipment including all or any film, cinematography, lighting or video equipment and accessories or any other goods of any other kind whatsoever hired by the Customer from the Owner

'Hire Agreement' means the Agreement between the Owner and the Customer for the hire of the Equipment which includes:

- (a) These Hire Contract Conditions of Hire; and
- (b) The Hire Agreement signed by the Customer

'Hire Charge' means the amount(s) shown on the Hire Agreement payable by the Customer to hire the Equipment;

'Hire Period' means the period from Commencement until the Equipment is returned to the Owner;

'Owner' means Fenton Films Pty Limited (ACN 147 097 587) trading as Fenton Film Hire and its substitutes, successors and permitted assigns; and

'GST' has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

2. Contract

2.1 The Contract between the Customer and the Owner comprises the Hire Agreement and these Hire Contract Conditions.

2.2 Any Hire Agreement entered into by the Customer is deemed to incorporate these Hire Contract Conditions.

3. Hire of Equipment

Delivery

3.1 The Customer is responsible for the collection and return of the Equipment, except where prior alternate arrangements are made with the Owner. The Owner has discretion as to the mode of delivery and the Customer must, at all times, bear the risk and the cost of delivery, unless otherwise agreed in writing by the Owner. Delivery (including for the purposes of risk of loss) of the Equipment to the Customer is deemed to take place when the Equipment is placed on the vehicle or with a carrier which is to take it from the Owner's place of business to the Customer's specified location (**Delivery**). With each Delivery, the Hire Agreement will itemise the Equipment delivered. The Hire Agreement is deemed to be conclusive evidence that the listed Equipment was delivered in good working order.

Hire Charge & Cancellation Fees

3.2. The Customer must pay the Owner a Hire Charge (the **Hire Charge**) for the hiring of the Equipment in accordance with the Hire Agreement and the attached Agreement for Hire of Equipment on or before Commencement of the Hire Agreement.

3.3 The Customer agrees to the following terms in relation to Hire Charge:

- (a) The Hire Charge for Equipment is calculated from Delivery until the Equipment is returned to the Owner's place of business and accepted by the Owner or his nominee (**Return**).
- (b) If the Customer fails to Return the Equipment on the expiry of the Hire Agreement, the Customer is liable for additional fees at the full daily rental rates set out in the Agreement for Hire of Equipment for each day until the Equipment is returned.

Return

3.4 The following conditions regulate the return of the Equipment:

- (a) The Customer must return the Equipment at the Customer's expense to the Owner's place of business in the same condition as when received by the Customer, subject to reasonable wear and tear. The Equipment is at the Customer's risk from Delivery until Return, except that acceptance of Equipment by the Owner's staff upon Return does not release the Customer from responsibility for loss or damage to Equipment pursuant to these Hire Contract Conditions.

Customer's Use of the Equipment

3.5 The Customer must:

- (a) not use the Equipment for any purpose other than image capture, lighting and related electrical distribution of the Customer's project and related matters;
- (b) not lend, sublet, pledge, or otherwise dispose of or encumber the Equipment, or permit anyone other than the Customer, persons under the Customer's direction and control (having appropriate qualifications and experience), or the Owner, to have possession of, use, examine or evaluate the Equipment;
- (c) not modify or disassemble the Equipment
- (d) take all reasonable precautions to avoid loss or damage to the Equipment during the Actual Hire Period;
- (e) advise the Owner of any fault in the Equipment, within 24 hours of the Customer's discovery of such fault; and
- (f) not, without the prior written consent of the Owner:
 - (i) use the Equipment on any abnormal or hazardous assignment;
 - (ii) transport the Equipment from the ground other than on a regular scheduled flight by a reputable airline and then the Equipment is only to be transported as cabin baggage;
 - (iii) take the Equipment out of Australia, without the prior written consent of the Owner;
 - (iv) use the Equipment in or near water
 - (v) not use the Equipment where it could be affected by climactic conditions including but not limited to excessive exposure to sunlight, heat, cold, corrosion, contamination, pollution or temperature variations;
 - (vi) expose the Equipment to excessive dust or sand;
 - (vii) use the Equipment in the rain;
 - (viii) clean any lens with anything other than a lens tissue or lens cloth or a lens pen; and
 - (ix) ensure that the Equipment is used in a skilful and proper manner by persons with the necessary experience and familiarity with the Equipment

Inspection & Recovery

3.6 The Customer further acknowledges that the Owner may enter into or upon any such premises where the Equipment may be in use to remove the Equipment, without prejudice to the rights of the Owner to recover from the Customer any monies due hereunder or any damages for breach hereof, and the Customer indemnifies the Owner in respect of any claims, damages or expenses arising out of any action taken under this clause.

Maintenance and Repairs of Equipment

3.7 The cost of repairs or replacement resulting from reasonable wear and tear, or from any defect in the Equipment not caused by the negligent use of Equipment by the Customer will not be charged to the Customer; provided, however, that unless otherwise agreed to by the Owner, the Customer is responsible for all transportation costs for sending the Equipment back to the Owner's place of business and for returning the Equipment (including any replacement thereof) back to the Customer's specified location. The Hire Charge for Equipment during the period it is being repaired or until it is replaced as a result of reasonable wear and tear or defect in the Equipment will not be charged to the Customer; provided, however, that the Customer must still bear the risk of loss during such period. The cost of repairs or replacement from misuse or abuse of the Equipment, will be charged to the Customer.

Owner to Retain Title

3.8 The Customer's rights in relation to the Equipment are as a hirer only and nothing herein is to be construed as conveying to Customer any right, title or interest, other than a temporary leasehold interest, in or to any Equipment or in or to any other property of the Owner, including the Owner's intellectual property.

Loss & Theft

3.9 If the Equipment mysteriously disappears or is stolen from the customer where the customer has not taken reasonable steps to insure the equipment's safety, the Customer is liable for and agrees to compensate the Owner for the greater of replacement cost (without deduction for depreciation) or the insurance value prescribed on the Owner's schedule of insurance values, which is available upon request and subject to update from time to time. The Customer will not attempt to repair any damage to the Equipment themselves .

Insurance

3.10 Subject to clause 3.11, the Customer acknowledges that in the event of loss of or damage to the Equipment, the Customer shall pay to the Owner on demand, the first \$500.00 plus GST in relation to each and every insurance claim resulting from damage to the Equipment during the Hire Period.

Insurance Exclusions

3.11 The acceptance of risk by the Owner pursuant to clause 3.10 expressly excludes, and the Customer remains completely liable for, loss or damage or liability of any kind directly or indirectly caused or contributed to or arising from:

- (a) misuse, mechanical or electrical derangement;
- (b) exposure to salt, exposure to water, exposure to dust or sand;
- (c) leaving the Equipment in an unattended vehicle, whether locked or unlocked;
- (d) ionising radiations or contamination by radioactivity from any irradiated nuclear fuel or from any nuclear waste from the combustion of fuel;
- (e) confiscation by customs or other authorities;
- (f) unexplained or mysterious disappearance of the Equipment;

- (g) the Customer making the Equipment available to another person not a party to this Contract;
- (h) the Customer taking the Equipment on any aircraft without permission; and
- (i) not with standing permission from the Owner to take the Equipment on a commercial aircraft, the Equipment not accompanying the Customer as cabin baggage.

3.12 In the event of any loss or damage or liability of any kind excluded by clause 3.11. the Customer will remain liable for the balance of any repairs or replacement of the Equipment in these circumstances. Under these circumstances the owner reserves the right to withdraw each items retail value from the provided credit card without notice to the customer.

Loss Procedures

3.13 In the event of loss or damage of any kind to the Equipment, the Customer must:

- (a) immediately notify the Owner (and the Police where appropriate) and take all practicable steps towards discovery and recovery; and
- (b) as soon as practicable, provide the Owner with a full written report of the circumstances of the loss or damage and furnish the Owner with any particulars or evidence as may reasonably be required by the Owner or the Owner's insurer.

Stored Data

3.14 If any Equipment is returned to the Owner at the end of the Hire Period still containing any of the Customer's visual or audiovisual content or other data, the Customer acknowledges that in the ordinary course of its business the Owner will clear any and all such content or data from the Equipment immediately following the end of the Hire Period in Hire Agreement to maintain and prepare the Equipment and systems for subsequent hire. The Owner has no obligation or liability for taking, or failing to take, any action with respect to such content or data, including, maintaining or safeguarding such content or its confidentiality or delivering it to the Customer. The Customer is solely responsible for protection and back-up of the Customer's data. The Owner has no liability or responsibility, whether direct, indirect, consequential or otherwise, for any loss or damage, including that the Owner is not liable or responsible for recreating all or any portion of any picture, original artwork or design.

5. Breach of Hire Agreement by Customer

If the Customer breaches any clause whatsoever of this Contract, or becomes bankrupt, insolvent or ceases business, then;

5.1 The Owner shall be entitled to

- (a) terminate this Contract, and/or
- (b) sue for recovery of all monies owing by the Customer, and/or
- (c) repossess the Equipment (and is authorised to enter any premises where the Equipment is located to do so); and

5.2 Any damage waiver fee referred to in clause 3.12 is immediately invalidated.

7. Disputes

- 7.1 The Customer must immediately check all Hire Charges, and any disputes in relation to those Hire Charges must be communicated to The Owner in writing within 30 days of the Hire Contract date. In the event that no communication is received from the Customer within that 30 day period, the Hire Charges are deemed to be accepted by the Customer.
- 7.2 If a dispute arises relating to this Contract, the hiring or the use of the Equipment (except in regard to payments due to the Owner), the parties agree to negotiate to settle the dispute with the assistance of the Hire and Rental Association of Australia before litigation.

8. Governing Law

These Hire Contract Conditions shall be governed by and construed in accordance with the law of the state of South Australia, and the parties submit to the jurisdiction of the courts of that State.

I HAVE READ, UNDERSTOOD AND ACCEPT THESE TERMS AND CONDITIONS

_____	_____
Customer Name	Customer Signature

Date	