



**CoverTel Services Pty Ltd**  
**ABN 84 694 785 446**

**Terms and Conditions for Equipment (Equipment, Manuals, Accessories and Other Items) Rental Services, known as "Equipment Rental"**

**These terms and conditions ("Terms") apply to all Equipment Rental provided by CoverTel Services Pty Ltd ("CoverTel") of 114 Bakehouse Road Kensington, Victoria 3031, Australia referred to in the written quotation issued by CoverTel (the "Quotation")**

**1 General**

- 1.1 CoverTel agrees with the Customer to provide Equipment Rental only upon the terms and conditions hereinafter provided and as may be specified in any quotation or proposal. Any terms and conditions that are contained in any purchase order or in any other document that is issued by the Customer or in correspondence or documents passing between CoverTel and the Customer;
- have no effect, and will not affect any agreement between CoverTel and the Customer pursuant to the Terms and the Quotation, even if CoverTel has had notice of those terms or conditions; and
  - do not constitute an offer or a counter-offer by the Customer.
- 1.2 By ordering Equipment Rental, or executing an Application for Credit or other financial accommodation with CoverTel, the Customer is deemed to have accepted the terms and conditions set out in these Terms and Quotation, and have agreed that they apply to the exclusion of all others.

**2 Quotations and Ordering**

- 2.1 If requested to do so by the Customer, CoverTel may issue a Quotation in respect of any Equipment Rental proposed to be provided under these terms. Any Quotation will remain open for acceptance for a maximum of thirty (30) days from the date of issue, or such other time as specified in the Quotation. CoverTel may withdraw a Quotation at any time
- 2.2 The Quotation will set out the following details;
- the Customer's name, address, and contact details, as well as the name, position, address and contact details for the Customer's contact person
  - the nature of the Equipment Rental to be provided pursuant to that Quotation
  - the location of the Equipment Rental
  - any specifications for the relevant Equipment
  - the time frame within which the Equipment would be supplied
  - the price payable for the Equipment Rental
  - any ancillary equipment or items to be supplied by CoverTel or by the Customer (specifying whom) and, if CoverTel is supplying them, the price payable for those items
  - the amount (if any) payable by the Customer in advance of the Equipment Rental commencing
  - any amount to be paid in advance; and
  - such other items as CoverTel considers relevant for that Quotation.
- 2.3 Once the Customer has accepted the Quotation and paid any amount contemplated by clause 2.2(i), CoverTel will commence providing the Equipment in accordance with these Terms and the Quotation. To the extent of an inconsistency between these Terms and a Quotation, the Quotation prevails.

**3 Formation of Contract**

Any order by the Customer for, or the acceptance of any quotation of, CoverTel for Equipment Rental to the Customer shall constitute an offer by the Customer to take the Equipment on hire from CoverTel on the terms in this Agreement at the rental rates set out in CoverTel' offer; an undertaking to fully indemnify CoverTel in respect of any loss CoverTel suffers as a result of such offer being withdrawn; and a warranty by the Customer that the description of the Equipment is suitable for their requirements.

**4 Hire Commencement and Termination**

- 4.1 The period of hire, and hire charges for the Equipment, start on the day after the Equipment is despatched by CoverTel for delivery to the Customer, or, at the time the Equipment is delivered to the Customer (or some other mutually convenient place, as agreed with the Customer)
- 4.2 The period of hire ends and hire charges cease to accrue;
- for Equipment delivered by the Customer to CoverTel per clause 6.2, at the time of delivery, or, if collected by CoverTel, in accordance with clause 6.3
  - for irreparable or lost Equipment when suitable replacement is acquired by CoverTel, the Customer pay to CoverTel the full cost of replacement of such Equipment
  - for damaged Equipment at the earlier of it being repaired, or, at CoverTel' option, a suitable replacement.

**5 Delivery Inspection and Acceptance**

- 5.1 Delivery dates for Equipment given by CoverTel are best estimates and CoverTel will use all reasonable efforts to adhere to them. CoverTel shall not however be liable for any delay in delivery
- 5.2 The Customer must notify any damage to or faults of the Equipment to CoverTel in writing within 48 hours from the time of its delivery. Unless alleged faults or damage are so notified the Equipment will be deemed to be accepted by the Customer and hire charges will be payable in full from the time stated in clause 4.1, until the time of such notification.

**6 Equipment Return and Collection**

- 6.1 Return of the Equipment must be pre-arranged (either at ordering, or during the period of hire). To allow the Customer's flexibility in Equipment use it is not automatically collected at the end of any proposed period of hire
- 6.2 Delivery of the Equipment by the Customer to CoverTel shall be to its trading address. The Customer shall be responsible for using adequate packaging materials for the return of the Equipment. In any event the Equipment must be returned in good condition free of any damage (other than fair wear and tear), otherwise see clause 4.2 above
- 6.3 Where CoverTel has agreed to arrange collection of the Equipment and it is available free of any damage (other than fair wear and tear) and suitably packed for return, the hire charges under Section 9 will cease to accrue as follows:
- where the equipment is ready before 3pm on a working day then hire charges will cease to accrue on that day, and if after 3pm, hire charges will cease on the following working day, except
- 6.4 After the designated rental period, the equipment is sent back to our Suppliers lab for inspection and assessment. This can take between 15-20 days following receipt of the equipment. Should our Suppliers lab find any damage (other than normal wear and tear) or missing equipment, additional charges will be incurred by you as the Customer. In the event of a dispute the opinion of an expert employee of the manufacturer of the Equipment shall prevail.

**7 Hire and Other Charges**

- 7.1 The charge for hire shall be at the rates set out in CoverTel' written offer to hire the Equipment. Unless stated otherwise, the minimum hire period is seven days
- 7.2 Hire charges and discounts may be subject to change without prior notice. CoverTel reserves the right to alter the charge for Equipment already on hire with 7 days' notice in which event the Customer may return the same and terminate the hiring
- 7.3 In addition to the hire charge CoverTel may make a separate charge for delivery and collection. The packaging materials are chargeable in full if not returned upon completion of hire. Where the Customer changes collection arrangements, CoverTel may make an additional charge.

CoverTel Services Pty Ltd  
PO Box 553, North Melbourne, VIC 3051  
114 Bakehouse Road, Kensington VIC 3031  
Australia

Phone: +61 3 9381 7888  
Fax: +61 3 9381 7899  
Email: [info@covertel.com.au](mailto:info@covertel.com.au)  
ACN: 163 820 862 ABN: 84 694 785 446

*"Excellence in Telecommunication Services"*



#### 8 No Variation

Rental Agreements with the Customer may only be varied or cancelled with CoverTel' consent. Supplementary charges will be invoiced accordingly.

#### 9 Payment and Taxes

Invoices will be issued at the beginning of the hire for the first month and every month thereafter. Where the hire is for less than 1 month, the total amount will be invoiced at the beginning of the hire. All invoiced charges are payable within 30 days of the invoice date.

#### 10 Invoicing and Payment

10.1 Unless otherwise specified by CoverTel, all prices specified in a Quotation exclude:

- a. any tax, including any Goods and Services Tax within the meaning of the A New Tax System (Goods and Services Tax) Act 1999 (Cth) ("GST"), duty or impost levied in respect of the Works (other than any tax assessable on CoverTel's own income; and
- b. costs and charges relating to insurance, transport (by any mode), travel, accommodation, and any other expenses incurred by CoverTel in carrying out its obligations under the agreement

10.2 Payment is due within thirty (30) days of invoice unless CoverTel otherwise specifies in writing in a Quotation. If CoverTel does not receive payment by the due date, then without prejudice to its rights under these Terms or generally CoverTel may;

- a. charge the Customer interest on the amount outstanding at the rate for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 (Vic) (compounding daily); and/or

- b. by written notice to the Customer, suspend the provision of any Work, whether under a particular Quotation or generally, until the Customer has paid the outstanding amount, interest and any amount payable under clause 10.3

10.3 The Customer is liable for all reasonable expenses (including contingent expenses such as debt collection commission) and legal costs (on a solicitor/own client basis) incurred by CoverTel in the enforcement of the Customer's obligations and the recovery of monies due from the Customer to CoverTel

10.4 Any payments received from the Customer on overdue accounts will be applied first to satisfy interest which may have accrued, second to reasonable expenses and legal costs referred to in clause 10.3 and then to the principle amount outstanding

10.5 CoverTel may revoke or withdraw any approval previously given to the Customer to extend credit to the Customer at any time and for any reason

10.6 CoverTel is entitled to set-off against any money owing to the Customer amounts owed to CoverTel by the Customer on any account whatsoever.

#### 11 Continuing Obligations

The Customer agrees that for the duration of the hire contract;

11.1 to keep the Equipment in the Customer's own possession and shall not deal in the Equipment or grant any rights or interest in it to any third party and not allow the Equipment to be transferred outside Australia without prior written consent from CoverTel

11.2 not to assign or transfer the benefit of this Agreement in whole or part; to notify CoverTel as soon as possible of any changes of address, telephone number or other Customer contact information; and

11.3 to preserve CoverTel' and manufacturer's identification number or mark or any nameplate that should be upon the Equipment.

#### 12 Use, Faults and Damage

The Customer agrees with CoverTel;

12.1 To observe all the manufacturer's instructions and other regulations that may be issued for the proper use of the Equipment and to be liable for any damage to the Equipment or loss of any manufacturer's warranty that results from failure to observe such instructions or regulations or failure to use same in a proper manner

12.2 Not to make any alterations modifications or technical adjustments to or attempt any repairs to the Equipment without the prior written consent of CoverTel

12.3 Not to subject the Equipment to any mishandling or abuse and to keep the Equipment in good condition and make good to CoverTel any loss of or damage to the Equipment however caused (fair wear and tear only excepted) whilst the Equipment is the responsibility of the Customer

12.4 To notify CoverTel in writing immediately of any damage or loss to the Equipment

12.5 Where the Customer reports faults in or damage to the Equipment but none can be found by CoverTel on inspection it may make a charge for costs and expenses relating to inspection and exchange of Equipment

12.6 To comply with applicable laws and regulations in the use of the Equipment and not to use the Equipment in any manner which could bring CoverTel into disrepute.

#### 13 Software

Unless the Customer has entered into a license directly with the manufacturer of the Equipment or other relevant party for use of software (in which case such license terms shall apply) then;

13.1 Ownership of all software including programs and manuals supplied by CoverTel shall remain with the original manufacturer of the Equipment subject to such rights as CoverTel may have in relation to such software. Save as expressly provided in this Agreement no licences or rights in any software are granted

13.2 Any software supplied by CoverTel is only made available to the Customer for the period of hire for use with the Equipment, either in the Equipment's central processing unit and/or for processing of any data. The Customer agrees not to assign or grant any sub-licence to any software supplied

13.3 The Customer may make two copies of software supplied by CoverTel for backup purposes during the period of hire but shall not permit any other duplicate of any version of any software supplied by CoverTel

13.4 On the termination of hire of the Equipment the Customer shall return to CoverTel all software and manuals supplied together with all copies.

#### 14 Confidentiality

Neither party may, without the other party's prior written consent, disclose to any third party or use other than for the purposes of providing or maintaining the Works, any Confidential Information of the other party imparted to or obtained by it during or in connection with these Terms. This obligation of confidence will cease to apply in relation to information that the party is required to disclose by any law, or which becomes part of the public domain other than as the result of a breach of any obligation of confidence by any party.

#### 15 Intellectual Property Rights

All intellectual property rights relating to the Works (including any design drawings, plans, software or any documentation) (the "Intellectual Property") remains the property of CoverTel or where applicable its licensors. The Customer will promptly notify CoverTel of any infringement or threatened infringement of any of CoverTel's intellectual property rights.

#### 16 Risk

The Equipment is at the Customer's risk from loss or damage throughout the period of hire. The Customer shall be responsible for and shall indemnify CoverTel against any loss damage injury or death to persons or property in connection with the hire or the use of the Equipment howsoever arising except for the direct and foreseeable consequences of any wilful default or gross negligence by CoverTel or its employees.

#### 17 Termination

If any payment is not received 30 days after the due date or if CoverTel has reasonable grounds for believing that the Customer may be unable to perform or has breached its obligations or had a receiver, administrative receiver or administrator appointed, the Customer shall be deemed to have repudiated this Agreement and CoverTel may terminate the hire and recover the Equipment at the Customer's expense without prior notice and the Customer agrees to make the Equipment available to CoverTel.

#### 18 Equipment Suitability, Quality and Liability

18.1 CoverTel provides literature representations and advice relating to Equipment that is compiled from manufacturers' information. Such Advice is given without charge and in good faith and CoverTel cannot accept any liability or responsibility for the consequences of any decision based on this Advice. Whether or not such Advice is given the Customer remains solely responsible for ensuring that the Equipment is suitable for the intended purpose and the Customer shall have no entitlement to reject the Equipment if the Equipment should prove unsuitable



- 18.2 If CoverTel provides Equipment that is defective by reason of CoverTel' default, its liability shall be limited to repairing or replacing it or if this is not practical to refunding any rental paid during the time the Equipment is defective, and as long as CoverTel are notified as soon as the defect is known to the Customer
- 18.3 At the request and cost of the Customer, subject to CoverTel being indemnified to its reasonable satisfaction by the Customer against any costs, liabilities and expenses it may incur, CoverTel will on the Customer's behalf enforce all warranties, conditions and other rights relating to the Equipment's description, performance or quality given by the manufacturer of the Equipment
- 18.4 The above agreement is in substitution for any representation (unless fraudulent) concerning the Equipment, or warranty express or implied, which but for this exclusion would be binding on CoverTel and all such representations and warranties are so excluded as is any liability of CoverTel to the Customer for its negligence
- 18.5 CoverTel' total cumulative liability for damages with respect to any hiring of the Equipment or any breach of any of its obligations to the Customer shall not exceed the total hire charges actually received in respect of the Equipment by CoverTel during the term of such hiring and it is agreed CoverTel shall have no liability to the Customer for consequential or indirect loss suffered by the Customer save that no term in this Agreement shall exclude or restrict CoverTel' liability for personal injury or death resulting from negligence.
- 19 Liability and Indemnity**
- 19.1 CoverTel and its officers, agents, subcontractors, representatives and employees ("Associates") are not liable in respect of any indirect, punitive, special, incidental, or consequential damage in connection with or arising out of breach of these Terms or any connection with or arising out of a breach of the Terms or any Quotation (including for loss of profits, loss of production, loss of goodwill or business reputation, loss or damage due to business interruption) which may be suffered or incurred or which may arise in respect of a failure or omission on the part of CoverTel to comply with its obligations under these Terms or Quotation
- 19.2 CoverTel and its Associates are not liable for breach of any of its obligations, to the extent that the act or omission of that party which would constitute such a breach, or give rise to liability, is caused by an act or omission on the part of the Customer
- 19.3 CoverTel's (and its Associates') total liability, if any, arising out of these Terms and any Quotation, shall in no event exceed the total price paid by the Customer for the Works.
- 20 Equipment Financing**
- The Equipment is either the property of CoverTel or that of a third party financier who has permitted CoverTel to enter into a rental agreement for the Equipment with the Customer. The Customer consents to the assignment or transfer of the benefit of this Agreement by CoverTel to any third party financier so long as the Customer continues to have the benefit of the use of the Equipment under the terms of this Agreement.
- 21 Force Majeure**
- 21.1 CoverTel will not be liable to the Customer or to any third party for any non-performance or delay in the performance of its obligations under these Terms or a Quotation, if a Force Majeure causes the non-performance or delay, and CoverTel gives the Customer notice of it. In no event will this provision affect the Customer's obligation to make any payment to CoverTel
- 22.2 If a Force Majeure delays or prevents CoverTel from performing its obligations for a period exceeding sixty (60) days, CoverTel may immediately terminate the agreement in respect of particular Works by written notice the Customer
- 22.3 For the purposes of this clause 12 "Force Majeure" means a circumstance beyond CoverTel's reasonable control which results in CoverTel being unable to observe or perform on time an obligation under these Terms or a Quotation.
- 23 Waiver**
- No time or other indulgence allowed by CoverTel to the Customer shall prejudice or waive any rights or remedies of CoverTel.
- 24 Law and Jurisdiction**
- 24.1 This Agreement is governed by and regulated in accordance with Australian law and the Australian courts will have non-exclusive jurisdiction in the resolution of any disputes.
- 24.2 If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part then this Agreement shall continue to be valid as to its other provisions and the remainder of the affected provision.
- 25 General Provisions**
- 25.1 These Terms and any Quotation are governed by and will be interpreted according to the laws of Victoria, and CoverTel and the Customer consent and submit to the jurisdiction of the courts of Victoria.
- 25.2 Nothing under these Terms or a Quotation constitutes a relationship of employer and employee, principal and agent, joint venture or partnership between CoverTel and the Customer.
- 25.3 If any provision of these Terms or a Quotation proves to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason, that provision is deemed omitted without affecting the remaining provisions and the remaining provisions of these Terms and a Quotation shall continue in full force and effect.
- 25.4 Any notice required or contemplated by these Terms or a Quotation is deemed to have been properly given if it is in writing, properly addressed and delivered personally or mailed postage prepared addressed or by fax to the Customer or CoverTel at their addresses set out in the Customer's Credit Application, or such other addresses nominated by a party in writing.
- 25.5 In these Terms and a Quotation, unless the contrary intention appears;
- clause headings are for ease of reference only and are not relevant to interpretation
  - a reference to a clause number includes a reference to its sub clauses;
  - words in the singular include the plural and vice versa
  - words importing a gender include any other gender
  - a reference to a person includes bodies corporate and unincorporated associations and partnerships
  - where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings, and;
  - monetary references are references to Australian Currency.