

F3Event Infrastructure

Portable Event Infrastructure CC t/a F3

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TERMS & CONDITIONS

1 DEFINITIONS

Unless the context otherwise indicates the following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:-

- 1.1 **“the Company”** shall mean Portable Events Infrastructure CC t/a F3 Event Infrastructure;
- 1.2 **“this Agreement”** shall mean the terms & conditions applicable to the letting and hiring of **the Leased Goods** and the rendering of **the Hiring Services** by **the Company** to **the Hirer**:-
 - 1.2.1 as contained herein; and
 - 1.2.2 in **the Quotation**.
- 1.3 **“the Hirer”** shall mean the person / entity referred to in **the Quotation**;
- 1.4 **“the Hiring Services”** shall mean the services rendered by **the Company** to **the Hirer** as described in **the Quotation**
- 1.5 **“the Leased Goods”** shall mean goods let by **the Company** and hired by **the Hirer** for **the Lease period** and at **the Rental** as set forth in **the Quotation**;
- 1.6 **“the Parties”** shall mean **the Company** and **the Hirer** when referred to jointly;
- 1.7 **“the Quotation”** shall mean the quotation offered by **the Company** and accepted by **the Hirer** onin respect of **the Leased Goods** and **the Hiring Services** in which specific reference is made to these Terms & Conditions;
- 1.8 **“the Rental”** shall be the rental payable by **the Hirer** to **the Company** as set forth in **the Quotation**;
- 1.9 **“the Site”** shall mean the location at which **the Leased Goods** are to be used, and **the Hiring Services** rendered, pursuant to the terms of **this Agreement**;
- 1.10 **“the Lease period”** shall mean the lease period as reflected on **the Quotation**;
- 1.11 **“the Commencement date”** shall mean **the Commencement date** as reflected on **the Quotation**;
- 1.12 **“the Termination date”** shall mean **the Termination date** as reflected on **the Quotation**.

2 LETTING AND HIRING OF THE LEASED GOODS AND THE RENDERING OF THE HIRING SERVICES

- 2.1 **The Company** hereby lets and **the Hirer** hires **the Leased Goods**;
- 2.2 **The Company** hereby agrees to render to **the Hirer**, **the Hiring Services**;
on the terms set forth in **this Agreement**.

3 **OWNERSHIP**

- 3.1 Ownership of **the Leased Goods** at all times remains with **the Company, the Hirer** having no right, title or interest therein except as set forth in **this Agreement**.
- 3.2 **The Hirer** shall not mortgage, pledge or in any way encumber **the Leased Goods**, or part with possession thereof, save for the purpose of its return to **the Company** in terms of **this Agreement**.

4 **PAYMENT TERMS**

Payment of **the Rental** by **the Hirer** to **the Company** shall be effected in the terms set forth in **the Quotation**, or on such other terms as may be agreed to by **the Company** in writing.

5 **ACCESS AND SITE CONDITIONS**

- 5.1 **The Company** or its duly authorised representative shall at all times reasonable in the circumstances be entitled to have access to **the Leased Goods** at **the Site** for the inspection thereof.
- 5.2 **The Hirer** shall be obliged, at its own cost, to take such steps and to provide such materials to ensure that the ground or surface at **the Site** is suitable for the proper and safe access thereto and installation of **the Leased Goods** thereon in compliance with **the Company's** requirements.

6 **RISK**

The risk of any loss of or damage to **the Leased Goods**, fair wear and tear excepted, and/or to property and/or injury to persons caused in the use thereof shall vest in **the Hirer** for **the Lease Period** from commencement of the loading of **the Leased Goods** at **the Company's** chosen place of dispatch, and shall remain with **the Hirer** until the return of **the Leased Goods** to **the Company**, in good order, has been confirmed by **the Company** in writing.

7 **INDEMNITY BY THE HIRER AND EXCLUSION OF THE COMPANY'S LIABILITY**

- 7.1 While **the Leased Goods** are at the risk of **the Hirer** as contemplated in clause 6 above, **the Company** shall not be responsible or liable to **the Hirer** or to any other persons, for acts or omissions by **the Hirer**, its agents, servants, employees, or contractors or any other person whether by the use of **the Leased Goods** or otherwise, nor shall **the Company** be liable for any damages to property and injury or death to persons occasioned thereby, whether direct or consequential, of whatsoever nature and howsoever arising caused to **the Hirer** or any other person or property.
- 7.2 **The Hirer** indemnifies and holds **the Company** harmless against all claims contemplated in sub-clause 7.1, including the legal costs incurred in the defence thereof, on the scale as between attorney and own client.
- 7.3 Without limiting the generality of the sub-paragraphs 7.1 and 7.2 above **the Company** shall not be liable to **the Hirer** and **the Hirer** indemnifies **the Company** with regard thereto in respect

of:-

- 7.3.1 the non-availability of **the Leased Goods** or replacements or failure thereof any time;
- 7.3.2 the costs, including but not limited to travelling and subsistence expenses, and expenses of recovering **the Leased Goods** for whatever reason;
- 7.4 **The Parties** record, in addition, their agreement that **the Company** does not warrant or represent, whether express or implied, that **the Leased Goods** are or **the Site** is fit, suitable and/or adequate for the purposes of **the Hirer** and/or the erection or installation of **the Leased Goods**, and **the Hirer** indemnifies **the Company** against any damages suffered by it or any third party as a result of the failure of **the Leased Goods** in this regard.
- 7.5 **The Company** shall not be obliged to make, institute or proceed with any claim which **the Company** may otherwise have had against a third party for the recovery of any loss or damage to or in connection with **the Leased Goods** and accordingly, **the Company** shall be entitled, in its fair and reasonable discretion, to abandon such claim or to settle such claim on such terms as it may in its sole and unfettered discretion determine.

8 **INSURANCE AVAILABILITY**

- 8.1 **The Hirer's** liability as contemplated in paragraphs 6 and 7 above may be reduced by **the Hirer** choosing, of his/her/its own volition, to procure **the Company's** non-compulsory All Risk Insurance cover ("**the All Risk Insurance**"), subject to all terms and conditions relating thereto.
- 8.2 **The Hirer's** acceptance or decline of the option referred to in this clause 8 are agreed to and are indicated on **the Quotation**.
- 8.3 If **the All Risk Insurance** is selected by **the Hirer**, **the Hirer's** liability, in respect of **the Company's** loss or damage, including all third party damage, will be limited to the excess payable and indicated on the face of **the Quotation**, provided **the Hirer** is not in breach of the further terms of **this Agreement**.
- 8.4 For purposes of clarity, **the Parties** agree that should **the Hirer** decline to procure **the All Risk Insurance**, and/or is in breach of the terms of **this Agreement**, the Hirer will be liable for **the Company's** loss or damage as well as any third party damages, subject to its obligations as set forth in clause 9 below.
- 8.5 For further purposes of clarification and without derogating from the content of clauses 6 and 7 above, should **the Hired Goods** be damaged, stolen or lost in circumstances where **the Hirer** is in breach of the terms and conditions of **this Agreement**, **the Hirer** shall be liable for the total loss and/or damage suffered by **the Company** irrespective of whether **the All Risk Insurance** was opted for or not.
- 8.6 **The Hirer** shall not compromise any claim in respect of **the All Risk Insurance** and/or any associates insurance without **the Company's** written consent.

9 **THE HIRER'S OWN INSURANCE OBLIGATIONS**

- 9.1 In the event of the **Hirer** choosing not to avail himself/herself/itself of **the All Risk Insurance** referred to in paragraph 8 above, **the Hirer** shall procure similar all risk insurance of **the Leased Goods** and **the Hiring Services**, against all loss or damage to property and injury or

death to persons arising during **the Lease Period** as contemplated in Clause 7 and as required by **the Company** at **the Commencement Date** (hereinafter referred to as "**the Hirer's Own Insurance**").

9.2 **The Hirer** shall be responsible for the payment of all premiums and other charges, including excess amounts, payable in respect of **the Hirer's Own Insurance**, save and unless otherwise agreed to by **the Parties** in writing.

9.3 Pursuant to the terms of this clause 9, **the Hirer** shall on request by **the Company**:-

9.3.1 ensure that the requisite premiums are paid in accordance with the stipulations of **Hirer's Own Insurance** policy terms and regulation and provide **the Company** with confirmation of timely payment thereof;

9.3.2 provide full details of **the Hirer's Own Insurance** procured by it in terms of this clause 9.

9.4 **The Hirer** shall not compromise any claim in respect of **the Hirer's Own Insurance** without **the Company's** written consent.

9.5 In the event that **the Hirer** fails or neglects to procure **the Hirer's Own Insurance** cover contemplated in this clause 9 by no later than **the Commencement Date**, **the Company** shall be entitled to do so itself, in which event all costs including but not limited to the premiums payable shall be for the account of **the Hirer**.

10 **CARE OF THE LEASED GOODS**

10.1 **The Hirer** shall be obliged to notify **the Company** in writing of any defects in or damages to **the Leased Goods** immediately on becoming apparent.

10.2 In such event **the Hirer** shall cease using **the Leased Goods** forthwith, failing which **the Hirer** shall be liable for any loss or damage to **the Leased Goods**, including consequential loss or damage sustained by **the Company** arising out of the continued use thereof, on the further terms set forth in **this Agreement**.

10.3 **The Hirer** shall:-

10.3.1 take adequate and proper measures to protect **the Leased Goods** from theft, damage and/or other risks;

10.3.2 notify **the Company** of any change of its address and upon **the Company's** request provide details of **the Site**, including its location and physical layout;

10.3.3 keep **the Leased Goods** at all times in its possession and control and not to remove **the Leased Goods** from **the Site** without the prior written consent of **the Company**;

10.3.4 be solely responsible for the conduct and cost of any testing, examinations and/or checks in relation to **the Leased Goods** required by any legislation, best practice and/or operating instructions except to the extent that **the Company** has agreed in writing to provide them as part of **the Hiring Services** and should the activity for which **the Leased Goods** are let, require such testing, examination and / or checks;

10.3.5 Maintain **the Leased Goods** in a clean and sanitized condition. **The Hirer** undertakes in this regard that it shall employ adequate personnel to comply with its obligations

contemplated in this clause and that it shall procure appropriate equipment which, for the purpose of this sub-clause 10.3, shall include:-

- (i) 1x rotary scrub machine;
- (ii) 1x high pressure cleaner;
- (iii) 1x low pressure water source;
- (iv) accessories related to the foregoing equipment;
- (v) Sunlight Liquid only in mixture with water in proportions of one to ten, **the Hirer** acknowledging that use of other cleaning agents may cause irreparable damage to **the Product**.

10.4 In the event that **the Hirer** does not wish to assume the responsibility for maintaining **the Leased Goods** in a clean and sanitized condition pursuant to the provisions of this clause 10, it shall be obliged to retain the cleaning services of **the Company** on the terms set forth in **the Quotation**.

10.5 **the Leased Goods** shall be returned by **the Hirer** to **the Company** on **the Termination Date** in good working order (fair wear and tear excepted) and in a clean and sanitized condition.

11 **LOSS OR DAMAGE TO THE LEASED GOODS**

11.1 In the event that **the Leased Goods** are returned to **the Company** in a state constituting a breach of sub-clause 10.3.5 above and subject to the further provisions of **this Agreement**, **the Hirer** shall be liable to pay **the Company** for the cost of any replacement and/or cleaning required to restore **the Leased Goods** to a condition fit for use by **the Company** in the conduct of its business;

11.2 In the circumstances contemplated in sub-clause 11.1 above, **the Hirer** shall in addition pay a rental amount calculated pro rata on **the Rental** payable for **the Lease period**, until the replacement and/or cleaning have been completed to **the Company's** satisfaction.

12 **BREACH OR DEFAULT**

12.1 If **the Hirer**:-

12.1.1 fails to make any payment to **the Company** when due; or

12.1.2 breaches the terms of **this Agreement**; or

12.1.3 persistently breaches the terms of **this Agreement**; or

12.1.4 provides incomplete, materially inaccurate or misleading facts and/or information in connection with **this Agreement**;

then all monies owed by **the Hirer** to **the Company**, if any, shall immediately become due and payable.

12.2 **The Company** shall be entitled to recover from **the Hirer** all costs and charges including legal costs on the scale of Attorney and Own Client (including collection commission and disbursements), incurred by **the Company** in connection with the breach by **the Hirer** with the terms of **this Agreement**.

13 **OCCUPATIONAL HEALTH AND SAFETY ACT 85 OF 1993**

- 13.1 **The Hirer** shall ensure the safe use of **the Leased Goods** as envisaged by Section 10(4) of the Occupational Health and Safety Act 85 of 1993, if applicable.
- 13.2 In the event that **the Hirer** does not have the competence to ensure the safe use of **the Leased Goods**, **the Hirer** shall notify **the Company** thereof on signature of **the Quotation**.

14 **GENERAL**

- 14.1 No warranties, representations or guarantees have been made by **the Company** or on its behalf to induce **the Hirer** to hire **the Leased Goods** or **the Hiring Services**.
- 14.2 No relaxation or indulgence which **the Company** may at any time grant to **the Hirer** in regard to the carrying out of **the Hirer's** obligations in terms of **this Agreement** shall prejudice or be deemed to be a waiver of any of **the Company's** rights in terms hereof.
- 14.3 Each of the terms herein shall be a separate and divisible term and if any such terms become unenforceable for any reason whatsoever, then that term shall be severable and shall not affect the validity of the other terms of **this Agreement**.
- 14.4 An extension of time or relaxation or indulgence granted by **the Company** to **the Hirer** will not operate as or be deemed to be a waiver of **the Company's** rights nor shall such relaxation or indulgence be deemed as a novation of any of the terms and conditions set out herein, or create estoppel against **the Company**.
- 14.5 **This Agreement** constitutes the entire agreement between **the Parties** and any agreement purporting to vary the terms of **this Agreement**, or any consensual cancellation, shall not be valid unless reduced to in writing and signed by a duly authorised representative from both **the Company** and **the Hirer**.
- 14.6 In the event of a dispute between **the Parties**, **the Hirer** agrees that in the event that the terms of **this Agreement** conflict those of **the Hirer**, the terms of **this Agreement** shall prevail.

15 **NOTICES AND SERVICE**

The Parties choose as their respective *domicilia citandi et executandi* their addresses as set forth in **the Quotation**, which shall not be a private bag or post box number.

16 **SUSPENSIVE CONDITION**

- 16.1 **This Agreement** shall be subject to an inspection of **the Site** first been conducted, at the instance of **the Company** or its agents, and pursuant thereto;
- 16.2 The suspensive condition as contained in this clause 16 may be waived by notice in writing by **the Company** to **the Hirer**, at the sole and unfettered discretion of **the Hirer**.