

# **SILK ESTATE LIMITED**

## **TERMS AND CONDITIONS OF TRADE**

### **1. DEFINITIONS**

- 1.1** "Client" means the person(s) hiring the Goods or receiving the Services or any person acting on behalf of and with the authority of the Client.
- 1.2** "Event" means the day in which the Parties have agreed the Goods and Services will be provided and used for. This may include more than one day, subject to agreement by the Parties.
- 1.3** "Goods" includes all goods, equipment, product, vehicle or any other item belonging to Silk Estate Ltd which is hired or borrowed by the Client, or is present on site of the Event for any reason whatsoever.
- 1.4** "Hire Period" means the 4 day period from delivery of the Goods until they are returned to the possession of Silk Estate Ltd, unless a longer period is agreed to by the Parties.
- 1.5** "Owner", or "Silk Estate Ltd" or "SEL" shall mean Silk Estate Ltd, its successors and assigns or any person acting on behalf of and with the authority of the owner.
- 1.6** "The Parties" means Silk Estate Ltd and/or their representatives and the Client and/or their representatives.

### **2. CONDITIONS**

- 2.1** The terms of trade set out below govern all of the supplies of Goods and Services from the Silk Estate Ltd to the Client. The Client, their representatives and/or any person responsible for the hired Goods is deemed to have read, understood, accepted and is immediately bound by these terms on payment of deposit and/or on acceptance of any Goods or Services from Silk Estate.
- 2.2** These terms and conditions replace all earlier written or oral agreements between the Parties, as well as any terms and conditions contained in any document used by the Client that purport to have contractual effect.
- 2.3** The headings of each clause within these terms are for reference only and should in no way affect the interpretation of the individual clauses.

### **3. HIRE TERMS**

- 3.1** All hire Goods supplied remain the property of the owner.
- 3.2** Hire is for 4 consecutive days with the understanding that items are used for 1 day only. The length of this period is to allow collection/delivery, use and return of the Goods. There are no discounts for shorter higher periods.
- 3.3** If the items are not returned within 4 days, an additional hire period of 4 days will begin with additional costs charged to the Client.
- 3.4** Any variations to the hire period must be agreed in writing at the time the booking is confirmed.

### **4. TITLE AND RISK**

- 4.1** Silk Estate Ltd retains title to the Goods and the Client merely has rights to possession as Bailee for the duration of the Event.
- 4.2** The Client has no right to agree, attempt, offer or purport to sell, assign, sublet, pledge, hire out or otherwise part with possession of the Goods supplied to them.

- 4.3 All responsibility lies with the Client for safekeeping of the Goods during the Hire Period against loss, theft or damage howsoever caused whether or not such loss is attributable to negligence or other omission by the Client.
- 4.4 Silk Estate Ltd accepts no liability for any claims in respect of any injury to persons or damage to property arising out of use of the Goods provided, however caused.
- 4.5 The Client shall be liable for any costs or penalties due to use of any of the supplied Goods including but not limited to any fines or tickets received from use of the chiller and toilet trailers, towage costs, local authority fines, seizure or impoundment costs that occur during the Hire Period.
- 4.6 The Client shall be liable for any costs, including insurance fees, which may be incurred due to an accident involving any hired Goods or products, including the trailers, whether or not the Client is at fault.

## **5. QUOTATIONS, PAYMENT AND CANCELLATION**

- 5.1 All prices listed include GST and are subject to change without notice.
- 5.2 All quoted prices are valid for 30 days. If a quote is not accepted within this time the prices are subject to change.
- 5.3 Quotes are deemed to be accepted when the non-refundable 20% deposit is paid to Silk Estate Ltd. If no deposit is paid, items are subject to availability only.
- 5.4 The remaining balance of the price is required to be paid at least 10 working days before the event takes place.
- 5.5 If the Client is a RuralCo (ATS) member, no deposit is required, only a signed quotation needs to be returned to confirm the booking. Normal cancellation charges do still apply.
- 5.6 If the Client is a business client and has an account with Silk Estate Ltd, payment is due the 20<sup>th</sup> of the month following the event.
- 5.7 Clients have two (2) weeks to remove an item from the order once the quote is accepted. After the two weeks have passed the Client is liable to pay 50% of the cost of the product they wish to remove from the order. Fluctuations in numbers of guests may be allowed after this two week period with no extra costs, subject to the sole discretion of Silk Estate Ltd.
- 5.8 If outside item(s) need to be bought in for you, a 50% non-refundable deposit is required to secure your booking. This often needs to be made a month or more before your hire date to ensure the item(s) will arrive in time for the Event. If no deposit is made, the item(s) will not be supplied.
- 5.9 In the event of a cancellation, the deposit is non-refundable due to loss of potential business attributed to the booking. If cancellations are received within two months of the Event, 50% of the full price is payable. If the cancellation is within two weeks of the Event, 100% of the full price is payable.
- 5.10 Without prejudice to the Silk Estate Ltd's other remedies under these conditions at law or otherwise, if the Client has not paid the full amount owed as the payments fall due, Silk Estate Ltd may charge interest at the rate of 5% compounding monthly from the end of the hire period until all monies have been paid in full.

## **6. DELIVERY**

- 6.1 All Goods are carefully checked by Silk Estate Ltd when packed, however, it is the Client's responsibility to also check the order themselves on receipt of delivery.
- 6.2 Any missing, incorrect or damaged items must be communicated to Silk Estate Ltd as soon as possible. Any complaints made after the return or pick up of the Goods will not be considered and will be attributable to the Client.

- 6.3 Silk Estate Ltd will not be liable for any delays to delivery of Goods or Services caused by circumstances outside of their control.
- 6.4 Delivery and set up is not included in the hire price. The Client shall pay for all delivery costs.
- 6.5 The Client or a representative of the Client must be present at the time of delivery of the Goods. If the Client is unable to do this, Silk Estate will endeavour to leave the items in a safe, weather protected place. Should the Goods be damaged, stolen or go missing in this situation, the Client will be liable for any costs associated with this.

## **7. DAMAGE AND ADDITIONAL COSTS**

- 7.1 All items must be returned in the same condition as they were provided. The Client will be liable for any costs associated with repair or replacement (including shipping) of any Goods hired.
- 7.2 All items remain the property of the Owners, including damaged items whether or not the Clients have been charged for their replacement.
- 7.3 Although every effort is made to ensure Goods are in top condition when delivered, it is the Clients responsibility to check all Goods on acceptance of delivery.
- 7.4 Any damaged or missing items not notified in writing by the Client to the Owner prior to the date of the Event will be attributed to the Client and the subsequent charges may be invoiced after the Event.
- 7.5 If in the Owners opinion the Goods returned are excessively dirty and additional cleaning above the normal amount is necessary, this will be charged to the Client at a rate of \$50 per hour of extra cleaning required.

## **8. ADDITIONAL TERMS**

- 8.1 All personal items must be removed from the Marquee before the prior agreed time that Silk Estate Ltd returns to begin the pack down on the day following the Event (unless prior arrangement has been made for use of the marquee the following day).
- 8.2 All plates are to be rinsed free of food and glassware stood upright in the boxes provided as to avoid liquid leaking. All other product that is not packed down by Silk Estate Ltd should be returned in the same manner that it was delivered.
- 8.3 Silk Estate Ltd will make their best efforts to supply the Client with the Goods as ordered, however, if for whatever reason an item has become unavailable, Silk Estate Ltd reserves the right to provide the Client with a similar or like product at no extra cost.

## **9. UNDUE/UNSAFE WEATHER CONDITIONS**

- 9.1 Silk Estate Ltd's marquees are tested and safe to a certain level of wind. During discussions prior to the Event taking place, concerns about weather and other risks will be raised and a plan put in place to mitigate these risks.
- 9.2 If in Silk Estate's sole opinion the conditions become unsafe due to wind or other unforeseen natural events then they may require the marquee to be evacuated immediately.
- 9.3 The decision by Silk Estate in these circumstances is final and all instructions by Silk Estate and their staff must be followed.
- 9.4 If circumstances such as this negatively affect the ability for the Event to run then Silk Estate shall not be liable for any loss or disruption to the day.

## **10. USE OF PHOTOS AND VIDEOS**

- 10.1 By agreeing to these terms and conditions, the Client agrees to allow Silk Estate Ltd to access photos and videos of the Event and the Goods and Services provided by

them and by others, via direct contact with any professional photographer being engaged.

- 10.2** The Client also provides permission for Silk Estate Ltd or its representatives to take their own photos and videos of the Event and the Goods and Services provided by them and by others.
- 10.3** These photos may be used for promotional and advertising purposes including but not limited to material produced by Silk Estate Ltd for websites and social media.
- 10.4** If the Client does not wish for photos or videos to be available for use by Silk Estate Ltd, or does not want material which may identify the Client to be used, this must be notified in writing at the time of booking, and before part-payment has been made.
- 10.5** The parties may by mutual agreement, agree to restrict the publication of such material by Silk Estate Ltd until such time as the Client has had a reasonable opportunity to publish or share the material themselves.

## **11. SEVERABILITY**

- 11.1** If in the event that any part of these terms or conditions will be determined to be invalid, unlawful or unenforceable for any reason, such terms and conditions will be severed from the remaining terms and conditions, and will have no effect on the enforceability of the rest of the terms and conditions contained herein.
- 11.2** These terms and conditions will be governed by the laws of New Zealand and any legal action arising out of its use shall be brought and enforced within the jurisdiction of New Zealand.
- 11.3** If Silk Estate Ltd does not initially enforce any term or remedy contained in this agreement this in no way limits their right to do so later should the issue not be resolved or in Silk Estate Ltd's opinion enforcement of the term is a necessary step for them to take.

## **12. PRIVACY**

- 12.1** Silk Estate Ltd has the highest respect for their Client's privacy and as such will not pass on the Clients information to any third party unless the Client has requested the seller to do so, granted permission for Silk Estate Ltd to do so or Silk Estate Ltd is required to by law.
- 12.2** All personal information collected will be used solely for the purpose stated, or to contact you with relevant information. If you wish to remove or change your information held by Silk Estate Ltd, we will promptly take action to comply with your request.

## **13. LIABILITY**

- 13.1** Except where Silk Estate Ltd is in breach of a guarantee in terms of the Consumer Guarantees Act 1993, the Client in entering into this contract acknowledges that in all other circumstances whatsoever Silk Estate Ltd shall not be liable for direct or consequential damage, loss or expense whatsoever and howsoever arising (whether in contract or in tort) including that resulting from the negligence of Silk Estate Ltd or arising by operation of law and whether suffered by the Client and/or third party for any amount that exceeds the amount actually paid by the Client to Silk Estate pursuant to this contract.
- 13.2** The provisions of the Consumer Guarantees Act 1993 (New Zealand) are excluded from any supply agreement If you are purchasing or holding yourself out as purchasing the Products for a business purpose. To the extent permitted by law, all statutory or implied conditions, warranties and guarantees which would apply are expressly excluded.

- 13.3** Should Silk Estate Ltd be delayed in or prevented from making delivery owing to any cause whatsoever beyond their control, then Silk Estate Ltd shall be at liberty to cancel or suspend the order without incurring liability for any loss or damage resulting therefrom.
- 13.4** Silk Estate Ltd shall not be responsible for any breach of this Agreement due to any matter or thing beyond its control (including but not limited to transport stoppages, transport breakdown, fire, flood, earthquake, acts of God, industrial action, war, riot or civil commotion, intervention of public authority or accident).