

## 1 INTRODUCTION

### 1.1 Background

You have requested, and We have agreed to provide You with the Product for use at the Site, in accordance with these Standard Terms and Conditions of Hire.

### 1.2 Interpretation

In this Agreement BSG Australia Pty Limited may be referred to as "Us", "Our", "We" or the "Owner".

In this Agreement the company or organisation hiring the Product may be referred to as "You" or "Your" or the "User".

## 2 AUTHORITY TO USE SYSTEM

Subject to You paying Us the User Fee, we hereby authorise You to use the Product in accordance with the terms and conditions set out in this Agreement.

## 3 USER FEE

### 3.1 Calculation of User Fee

You must pay Us the User Fee. The User Fee will be the amount set out in your quote and/or on Your Tax Invoice(s). We may review the User Fee (at Our discretion) at the end of each Term.

### 3.2 Payment of User Fee

The User fee is to be paid in line with your agreed BSG Account Payment Terms.

## 4 PERIOD OF USE

### 4.1 Term

You are authorised to use the Product for our standard term of 30 days, unless otherwise specified. You are bound by this Agreement for and during the Term.

### 4.2 Further Term

This Agreement will automatically be renewed at the end of the Term, unless You notify Us that You do not wish to continue with this Agreement. Such notice to be given to Us no later than 30 days before the end of the Term.

## 5 OWNERSHIP AND RISK

### 5.1 Ownership

The Product (and all other equipment, fixtures or fittings and related materials) provided by Us to You in connection with this Agreement remains Our property and You have no right of ownership, title or interest in them (except the right to use the Product in accordance with this Agreement). A registration on the Personal Property and Security Registry (PPSR) is held

over the Product (and all other equipment, fixtures or fittings and related materials).

### 5.2 Risk (Public Liability Only)

Once the Product (and any other related equipment or materials) are provided to You and installed at the Site, subject to clause 11.2, You are liable for personal injury or property damage arising out of the use of the Product (and any other related equipment or materials) except where there is a fault in the Product (or other related equipment or materials) or where We are otherwise liable for the personal injury or property damage at law in the absence of these Standard Terms and Conditions of Hire.

## 6 RESPONSIBILITIES AND OBLIGATIONS

### 6.1 Our responsibilities/obligations

We agree to:

- (a) provide, install and reasonably maintain and repair the Product (and all related equipment/materials) during the Term;
- (b) provide general service, maintenance and repairs during normal trading hours upon reasonable notice by You;
- (c) provide software support and upgrades in line with the current regulations from time to time as part of the general maintenance of all equipment forming part of the Product.

### 6.2 Your responsibilities/obligations

You must:

- (a) provide adequate and appropriate space at the Site for the proper installation and operation of the Product (and associated equipment/material);
- (b) ensure that all equipment forming part of the Product is included on your public liability insurance cover;
- (c) allow Us access at all reasonable times upon reasonable notice from Us to install, maintain or remove the Product, and to check on the overall performance from time to time;
- (d) use Your best efforts to protect and keep the Product in good working condition. You must promptly notify Us of any malfunction or damage to the Product. You shall be responsible for all costs of repairs or replacement in the event of damage to or malfunction of the Product caused by abuse, misuse or vandalism by You, Your agents, servants, employees, representatives or members patrons or guests;

- (e) not use the Product for any purpose other than to comply with Your obligations under this Agreement and Manuals;
- (f) operate the Product in accordance with the Manuals or Our directions provided to You from time to time;
- (g) on termination of this Agreement for any reason, promptly return to Us all of the Product (and related equipment/materials);
- (h) not encumber, sell, dispose of, remove from the Site, tamper or sub-licence the Product;
- (i) ensure that the Product is in a secure location and is protected from vandalism and damage by customers, patrons, members and guests;
- (j) not alter, change, modify, copy, duplicate or add to the Product without Our prior written consent; and
- (k) ensure that Your staff and employees receive proper training, and that they cooperate with Our trainers/representatives in respect to the use, promotion and operation of the Product.

**6.3 Other responsibilities**

We accept no responsibility and You will be responsible for any malfunction to the Product arising from or due to a patron or customer at the Site using any part of the Product (including but not limited to the P.E.T hand held unit) in connection with any game of any kind, or due to Your breach of this Agreement except We remain responsible for the proportion of liability that We have at law for the malfunction as a result of Our negligent or wrongful acts or omissions or any defect in the Product..

**7 INSPECTIONS**

You authorise Us to inspect the Site and the Product from time to time, upon Us giving You reasonable notice.

**8 TERMINATION**

**8.1 Termination by Us**

We may terminate this Agreement immediately if:

- (a) You become insolvent or are unable to meet Your debts as and when they fall due or You are adjudicated as bankrupt or You have a receiver, receiver and manager or similar official appointed over any of Your assets or You make an

assignment to the benefit of creditors or You file a petition for an arrangement, composition or compromise with Your creditors under any applicable laws, or You become externally administrated, or You have a trustee or other office appointed to take charge of Your assets; or

- (b) You do not strictly comply with Your obligations under clause 6.2 or You otherwise breach this Agreement;
- (c) if You do not pay the User Fee when due and owing.

**8.2 Termination by You**

You may terminate this Agreement if We materially breach this Agreement and do not rectify such breach within 30 days of You giving Us written notice to do so.

**8.3 Consequences of termination**

If this Agreement is terminated, You must not operate the Product anymore and You will immediately give Us access to Your Site to remove the Product (and related equipment and materials). You must not for any reason whatsoever at anytime hold a lien over Our Product (or related equipment or materials) or otherwise set off any amount of the User Fee You owe Us for any alleged claim, dispute of invoice or otherwise. You must pay us all outstanding amounts of the User Fee due and owing up to the date of termination.

**9 GST**

**9.1 Goods and Services Tax/Value Added Tax**

- (a) Tax levied  
Any goods or service tax or value added tax levied or imposed on or in respect to any supply or any associated service or fee made under or in connection with this Agreement for which the consideration is a monetary payment, then the consideration provided for that supply is increased by the amount of (A x B), where A is the percentage rate at which that GST/VAT is levied or imposed and B is the monetary consideration.
- (b) Compliance with laws.  
Each party warrants that it has complied with any local laws in relation to the registration for or generally in respect of GST or VAT, whichever is applicable.

**10 CONFIDENTIALITY**

A party must not, and shall take all reasonable steps to ensure that its employees, agents and sub-contractors do not, without the approval of the other party, disclose any part of the Confidential Information to anyone or use any part of the Confidential Information, except for the purposes for which it was disclosed, except:

- (a) where it is required by law to be disclosed; or
- (b) to the extent that the information has come into the public domain other than as a result of a breach of the obligation imposed on the parties by this clause.

**11 INDEMNITY AND LIABILITY**

**11.1 Indemnity**

Subject to clause 11.2, each party (**the defaulting party**) indemnifies the other party for any suit, action, loss, damage or claim suffered or incurred by that party or a third party arising out of or due to the defaulting party's breach of this Agreement or negligent or wrongful acts or omissions, except the liability of the defaulting party under any indemnity in this clause 11.1 or any other clause of this Agreement shall be reduced proportionately to represent the share of responsibility that the defaulting party has for the suit, action, loss, damage or claim according to the extent to which the defaulting party's breach of any provision of the Agreement or the defaulting party's negligent or wrongful acts or omissions caused or contributed to the suit, action, loss, damage or claim.

**11.2 Liability**

To the maximum extent permitted by law, neither party will have any liability to the other for fines, penalties, taxes (except GST), legal costs and expenses (except reasonable legal costs awarded by a court), any exemplary, aggravated or punitive damages, liquidated damages, or any indirect or consequential loss (including but not limited to loss of business, loss of revenue, loss of contract, loss of production, lost opportunity costs) arising out of or in connection with this Agreement except where such losses are covered by an insurance policy held by the party. In the event that an insurance policy held by a party does not cover the loss or liability of the party in relation to the Product, or an indemnity given under this Agreement, the party's total

aggregate financial liability the other party is limited to \$10,000.

**12 ADMINISTRATIVE PROVISIONS**

**12.1 General Provisions**

- (a) These general terms do not in any way imply a principal and agent, partnership, joint venture, franchise or any similar relationship between us. Neither party may act, or represent itself as acting on behalf of the other party.
- (b) Both parties must not assign their right or obligations under this Agreement without the written consent of the other party.
- (c) This Agreement shall be governed by the laws of Queensland, Australia.
- (e) This Agreement may only be varied by the parties in writing.

**13. SPECIAL MEANING OF WORDS**

In this Agreement, the following words have special meaning:

**"Confidential Information"** means the terms and conditions set out in this Agreement, any information marked private and confidential and any information disclosed by one party to the other party for the purposes of this Agreement.

**"Manuals"** means the P.E.T. Programmable Electronic Ticket System Operations Manual (which You hereby acknowledge You have received a copy of) as varied by Us in our discretion from time to time;

**"Site"** means the premises/venue where You use/operate the Product.

**"Product"** means the hardware and associated software, materials and accessories supplied by BSG Australia Pty Ltd, and any modifications or upgrades made by Us from time to time.

**"Term"** means the agreed initial Hire term of 30 days and subsequent monthly periods, unless otherwise agreed by both parties.