

DJs NOW! Mobile DJs – Terms and Conditions (Effective 1st July 2006)

By submitting our online booking form and clicking 'agree to terms and conditions' binds the hirer to the following terms and conditions.

Definitions:

- The Agent is the duly authorized agent of the Performer. The Agency shall not be liable for any default under this agreement or negligent act or omission of either party in any way whatsoever from this agreement or any related matter.
- The terms “the Agent” or “the Agency” shall mean DJs NOW!, its proprietor, its employees, servants, agents and sub-contractors, and its successor or assigns.
- The Performer will mean an employee, servant, agent or sub-contractor of DJs NOW! (Australia).
- The Hirer will mean the person, group and/or organisation that specifically by way of Contract shall hire any equipment from DJs NOW!
- The Contract means the Booking confirmation, read in conjunction with these Terms and Conditions with respect to the equipment and services and the hire thereof made between The Agent and The Hirer.
- The Equipment means any equipment supplied by DJs NOW! & referred to on the Booking Agreement, or required without reference, in order to provide the services agreed to under the Contract between the Agent and Employer.
- The Service means any actions required to be performed by the Agent for and on behalf of the Hirer and/or Venue management.
- The Package means any and all equipment and services offered as a singular offering by the Agent to the Hirer as detailed in the Agents literature and as outlined in the Booking Agreement and Contract.
- The Function means the event or gathering for which the Agent is being hired as specified in the Contract. For the purpose of these Standard Terms and Conditions, Function specifically excludes any event where the general public are admitted with or without consideration.
- The Venue means the location whereby the function will take place. For the purposes of these terms and conditions it is agreed that the Venue is a location specifically hired by the Hirer for the purposes of hosting the Hirer’s function. In the case that the Venue is owned by, managed by or otherwise under the direct control of the Hirer, then the definition of Venue will be the same as the definition for Employer.
- Except where specifically noted, the singular will mean the plural and vice versa. References to the masculine gender shall include all other genders and vice versa.
- Inception date refers to the date The Employee receives the Contract by mail from the Agent. For the purpose of the Contract entered into between the Hirer and the Agent, the Hirer / Venue understands and agrees without exception to the following conditions:

1-Payment

- (a) For the purposes of securing the booking, the hirer is required to return this Booking Agreement accompanied with full payment or agreement to pay by other acceptable payment option as specified, within seven (7) days of the booking date.
- (b) Payment may be made by cheque, Electronic Funds Transfer (EFT), or by money order made payable to “DJs NOW!”.
- (c) Cheque payments will not be accepted on the day of the performance for any reason whatsoever.
- (d) Funds from payments made by cheque and direct funds transfer must be available to the Agent no less than seven (7) days prior to the function date. If funds are not cleared, the Hirer will be notified by the contact means supplied in the Contract and unless funds are made immediately available or other arrangements are made, the Contract will be deemed null and void.
- (e) Payment of a deposit (if applicable) by the Hirer shall not be a condition precedent to this agreement.

(f) The Hirer shall repay to the Agent all fees and charges incurred by the Agent as a result of default of any payment including but not limited to fees imposed upon the Agent by the Agent's bank, and fees and charges incurred by the Agent in the course of the recovery of any outstanding amounts owed to the Agent by the Hirer.

2 - Tentative bookings

(a) The Agent reserves the right to refuse tentative bookings for any reason whatsoever.

(b) The Agent reserves the right to release tentative booking dates to other prospective Employers without notice if payment is not made as outlined in Section 1 by the due date provided on the Contract, Invoice or within the cover letter provided with the Contract, or in the event that the Hirer of an unpaid function cannot be contacted.

3 - Cancellation (Prior to function)

The Hirer may cancel this booking at least 24 hours prior to the performance

4 - Cancellation (Function in progress)

(a) The Agent reserves the right to, in its absolute discretion, cancel a function in progress without notice if it deems that the continuance of the function endangers the safety of the Agent, Hirer, Hirer's guests, the Agent's equipment or for any other safety or welfare reason.

(b) The Agent will immediately cancel a function in progress if so directed by the Venue, the Hirer, any member of the Victoria Police, Metropolitan Fire Brigade, Country Fire Authority, Victoria Ambulance Service or any other emergency service or public welfare body.

(c) The Agent reserves the right to cancel a function in progress should the provision of mains power supply be interrupted, unsafe, unreliable or otherwise unsafe for any reason and the restoration of said mains power not be possible, or that continuous supply of mains power not be guaranteed.

(d) In the event that the Agent cancels a function in progress for reasons stated above or for any other reason, the Hirer shall not be entitled to any refund in part or in whole of any monies paid to the Agent, and the Hirer shall pay any outstanding balances (if any) due to the Agent within seven (7) days without further notice.

(e) If a function in progress is cancelled for safety reasons, the Hirer/Venue shall immediately become responsible for the Agent's/Performer's equipment and hardware left on the premises. If the equipment is damaged or stolen after the Agent/Performer has left the performance area, the Hirer/Venue shall become liable and compensate the Agent for any damages, repairs or replacements required to the said equipment within a period of seven (7) days from the event.

5. Safety

(a) The Hirer acknowledges and understands that in execution of its duties the Agent may employ and/or generate high levels of audio energy and that the Agent may employ lighting effects that pulse, flash and intermittently engage and disengage high levels of light energy and heat.

(b) The Hirer, in signing the Contract, agrees absolutely that all risk is acquired by the Hirer with respect to any adverse effect to any person or persons as a result of direct or indirect contact with or being within proximity of any and all equipment supplied by the Agent.

(c) The Hirer undertakes to indemnify the Agent from any action as a result of the Hirer or Employer's guests having been exposed to any audio or light energy including heat energy used by or generated by the Agent and/or the Agent's equipment.

(d) The Hirer assumes all liability for any hearing loss, be it partial or total, temporary or permanent to any person or persons as a result of being in attendance at the function hosted by the Hirer. Further the Hirer assumes all liability for any adverse reaction by any person or persons caused directly or indirectly as a result of any lighting effect supplied by and/or operated by the Agent.

(e) The Agent may in its absolute discretion disallow access to its equipment and impose an exclusion area around its equipment in order that the safety of the Agent, the Hirer and Employer's guests be maintained. The Hirer agrees to abide by directions issued by the Agent with respect to any clearance or exclusion area around the Agent's equipment.

- (f) The Hirer will provide a proper number of attendants and stewards to ensure the sufficient supervision of the venue and to prevent the entry of undesirables and ensure proper conduct of the audience, the safety of the audience, the safety of the Agent and the preservation of order.
- (g) The Hirer will ensure the Agent is provided with a safe and secure area to perform. If the Agent in his/her sole discretion considers that the area in which he/she is to perform is unsafe because of a lack of shelter from the elements including rain, winds, extremes of heat and cold or other adverse weather conditions, or for any other reasons whatsoever, he/she may require that the Hirer make that area safe or make available another area that is safe. The decision on whether an area is safe for performance shall be solely that of the Agent. If the Hirer fails to make the area safe, or make available an alternative safe area, the Agent shall not be obliged to perform but his/her fee shall nevertheless remain payable.
- (h) The Hirer shall take all reasonable precautions to prevent any other person other than the Hirer, his/her representatives, stagehands and other performers from seeing the Agent before and after, if so requested by the Agent.
- (i) The Hirer shall provide proper dressing room facilities if so required by the Performer. This specifically excludes publicly accessed rest rooms, toilets, or any other publicly accessed amenity, unless otherwise agreed to by the Agent.
- (j) The Hirer will provide access to sufficient mains power outlets. Where normal power supplies are not available, the Hirer will provide a safe and properly supervised generating system operated by qualified persons. The Hirer will make known to the Agent that such a system will be in use at the function when booking the function. The Agent may, at his absolute discretion, refuse to use an generating system deemed unsafe to the The agent or agents equipment. The Hirer will be liable for any damages to the Agents equipment as a result of the use of any power generating system. He will also indemnify the Agent for any loss, damage or injury arising through any malfunction of any such generating system..

6 - Smoke Detectors

- (a) The Agent may use a water based fluid in all systems that have smoke machines, fog machines and / or hazers supplied as part of the entertainment packages provided. The Hirer will ensure that smoke detection devices at the venue are isolated or switched off by an authorised representative of the venue where and when required. The Agent will not be held liable nor responsible for call outs made by Local, State or Federal Fire Fighting Authorities or Emergency Services under any circumstances. The hired must notify the agent prior to the performance should such a device be unsuitable in a venue

7 - Insurance, Licenses & Copyright

- (a) The Hirer will obtain any and all insurance as necessary to cover loss of the Hirer's property, and loss caused by delay or cancellation of the Hirer's function for any reason.
- (b) The Agent and the Venue shall obtain and annually renew a license from the Phonographic Performance Company of Australia (PPCA) and Australian Performing Rights Association (APRA) for the public performance of copyrighted works at its own expense.
- (c) The Hirer is responsible for the obtaining of any further licenses from any statutory bodies as required in order to host the Hirer's function in full compliance with the law.
- (d) The Hirer undertakes not to cause the Agent by way of direct or indirect action to cause any breach of the Copyright Act. This includes but is not limited to solicitations to play a burnt or copied Audio CD / mp3 file/ mpg file/ Video-CD / VHS tape or DVD, or duplicate any copyrighted works in the possession of the Hirer, the Agent or any third party.
- (e) The Hirer will indemnify the Agent against any action as a result of the Hirer's failure to fulfill the requirements in clauses 7a, 7b & 7d.
- (f) Where the Agent installs equipment on the Hirers premises the Hirer shall be responsible for altering their insurance coverage to cover the additional equipment installed by the Agent.

8. General

- (a) By clicking 'agree to terms and conditions' after reading the Booking Agreement, the Hirer and Agent will have deemed to enter a binding Contract between the two parties.
- (b) All bookings will have a firm duration time. The Agent will not accept bookings where the

completion time is “open ended” or unspecified by the Hirer. Where no end time is specified, the end time shall be five hours after the commencement time.

(c) Functions that are pre-booked to continue beyond five continuous hours are subject to an hourly overtime rate. Overtime rates are at published rates listed in the Agent’s literature available upon request from the Agent’s office. In considering overtime charges, part hours will be rounded up to the next whole hour.

(d) All pricing is quoted for indoor venues only. Marquees and tents are not rigid structures and are not considered to be indoor venues. The Agent is under no obligation to perform or provide equipment where a marquee or tent is provided without the Agents knowledge.

(e) All pricing includes travel to and from the venue where the venue is thirty (40) kilometres or less from the G.P.O. Melbourne. The Agent reserves the right to charge the Hirer for travel in excess of this distance at an hourly rate plus applicable tolls, round trip.

(f) The Agent reserves the right to substitute equipment employed in its packages to fulfill quality, access and specific venue requirements.

(g) The Agent reserves the right to sub-contract the delivery of any or all of its Services and Equipment as it sees fit.

(h) If these conditions become wholly or partly invalid, individual conditions shall to the extent of invalidity be served without prejudice to the continuing force of the remaining conditions.

(i) The contract and these conditions shall be governed by and construed and take effect in accordance with the Laws of the State of Victoria.

(j) Any loss suffered by the Hirer due to malfunction of the equipment shall not be the responsibility of the Agent and the Hirer shall not be entitled to recover from the Agent any sum or any loss or damage of any kind whatsoever due to any malfunction of the equipment.

(k) The Agent will not be held liable for any damage caused to the premises, property or material not under the ownership of the Agent, and the Hirer hereby indemnifies the Agent against any claims or actions whatsoever or howsoever made against the Agent of any such damage to premises, property or material.

(l) The Hirer agrees to pay the Agent the full amount of any judgment recovered against the Agent arising out of or resulting from the default or neglect of the Hirer for any reason.

(m) Persons agreeing to this Contract on behalf of the Hirer warrant that they have the authority to do so and accept liability for agreeing to this Contract. Where the organisation or company for which the undersigned has determined this agreement does not make payment or fulfill any part of this agreement the undersigned will accept full responsibility and will personally guarantee that all commitments under this agreement are met. Where the undersigned is a director of the organisation he / she will be personally liable and all other directors will be liable jointly and severally.

(n) Once Terms and Conditions been agreed upon a contract entered into, these conditions shall not be varied unless such

variations are approved and signed by both parties in writing. No variation will be entertained or entered into by the Agent twenty-one (21) days or less prior to the date of the Hirer’s function without the Agent’s express consent in writing.

(o) These terms and conditions are made publicly available on the Agent’s web site and/or copies are available free of charge upon request from the Agent’s office during business hours. The Agent reserves the right to, from time to time, revise and/or change these Terms and Conditions without further notice to the public.

(p) The Agent reserves the right to substitute equipment from time to time with other equipment of similar performance standards in accordance with changes in technology.

(q) The Agent reserves the right to use all photographs, still images, video footage and digital images taken at the performance for promotional purposes in its brochures and on its website.

(r) The Hirer shall be liable for the replacement cost of Interactive Costumes and Props damaged or not returned by their guests as a result of their use at the performance.

9. Multiple Bookings

(a) Where multiple bookings are placed with the Agency for the supply of a Performer/s on a regular basis, or where the Agency supplies resident DJs to a venue or venues under the management of the same Employer, be they an individual, company, or other legal entity, the

Hirer acknowledges that the same Standard Terms And Conditions shall apply to each and every subsequent performance as they did for the first.

(b) Standard Terms And Conditions need be agreed upon once where multiple bookings are placed by the same Employer.

(c) Each subsequent Booking shall be interpreted as per the Standard Terms and Conditions of the first signed copy.

10. Repeat Performances

(a) All repeat performances generated from this Booking are to be directed back to The Agent.

(b) The Agent shall not negotiate directly with the Performer for the supply of the Performer's services.

(c) The Performer shall not negotiate with the Hirer to supply his services directly.

(d) Failure by the Hirer or the Performer to abide by Clause 10 (a), 10 (b), and 10 (c) shall result in legal action being taken by the Agent for damages and/or lost income based on past and existing Contracts to the fullest extent of the law.

(e) The Agent may elect to release both the Hirer and the Performer from the Terms and Conditions listed in Section 10, Clauses 10 (a) (b) and (c) at his or her discretion, subject to payment of a fee by the Hirer equal to 25% of one years income derived by the Agent from the supply of that Performer to the Hirer.

The Hirer is referred specifically to these Standard Terms and Conditions, which together with the Booking Contract constitute the Contract. Failure to read these Standard Terms and Conditions does not constitute a reason for cancellation of the performance/s booked by the Hirer or Venue.