

GOTCHA NETS (2019) LIMITED (“Owner”)

TERMS AND CONDITIONS OF HIRE (“Terms”)

1. Definitions

“NETS” means all nets, ropes and brackets or any part thereof supplied by the Owner.

2. Hire of Nets

Owner agrees to let to Customer and Customer agrees to take on hire of the nets described in the schedule attached to these Terms (or described in Owner’s quote) (“Nets”) for the term, at the rental and otherwise on the terms and conditions set out in, or referred to in, these Terms.

3. Term of Hire

The term of hire of the Nets shall be for the period specified in Owner’s quote or if there has been no written quote by Owner or if the term is not specified in Owner’s quote, then for the period **commencing on [] and expiring on []**. Owner and Customer may by agreement extend the hire term on a weekly basis following the expiry date and, in such case, Customer shall pay the below mentioned rental for such extended period and all the terms and conditions of these Terms shall apply during the extended period with any necessary modifications. Where dates are extended, either party may give the other 14 days notice of termination of contract. Where there are no written dates in either contract or quote, the rental period is from date of delivery of nets until date of collection from Gotcha staff.

4. Rent

4.1 Customer shall pay to Owner, without any set off or deduction of any kind, rent for the Nets at the rate specified in Owner’s quote (or if there has been no written quote by Owner then the current comparable rate Gotcha nets is charging). The full amount is payable on the 20th day of the month of invoice. If the term of hire is extended then rental for the extended period beyond the expiry date shall be payable by Customer to Owner on month of invoice.

4.2 The owner shall be released from its obligations to supply the nets in the event of an accident, national emergency, inclement weather, prohibitive governmental regulations or for any other cause beyond the reasonable control of the owner which renders the performance of this agreement impossible.

5. Deposit

- 5.1 The Owner may require the Customer to provide details of a valid credit or debit card upon hire of the nets as a form of deposit, in which event the Owner reserves the right to present these details at any time for payment of any sums due under the Contract.

6. Customer's Obligations

In addition to its other obligations under these Terms, Customer shall:

- (a) keep the Nets at the site referred to in Owner's quote ("**the Site**"). Customer shall not remove or allow removal of the Nets from the Site (or from such other location as may be agreed in writing by Owner); installation of nets is only to be carried out by Gotcha certified staff and no change or altering in anyway by customer to the setup of the nets.
- (b) not allow any encumbrance, charge or lien of any kind to arise or remain on the Nets;
- (c) not sell or agree to sell or offer the Nets for sale, pledge or hire or other dealing or disposal to any other person or part with possession of the Nets;
- (d) allow Owner (and its contractors or agents) at all times and at any time unrestricted access to the Site to inspect the Nets and to repair or remove the Nets (if considered necessary by Owner) and as otherwise may be required to protect Owner's rights in the Nets;
- (e) cease to use and immediately notify Owner in the event of any loss or damage to the Nets
- (f) not attempt or allow any other person to repair any damage to the Nets.
- (g) immediately deliver up and allow the Nets to be collected and removed from the Site by Owner (or its contractors or agents) at the expiry of the term (or the extended term, as the case may be) or upon Owner earlier terminating the hire of the Nets in the event of any breach of these Terms by the Customer.
- (h) NOT ALLOW ANY PERSON TO WALK ACROSS, LAY IN AND KEEP ALL DEBRIS OUT OF THE NETS AT ALL TIMES these are a single fall net and will stretch beyond use if the above is not adhered to and will result in customer being charged full replacement cost of the damaged nets. NETS ARE NOT TO BE USED FOR ANY PURPOSE OTHER THAN HELP IN PREVENTION OF HARM IN ACCIDENTAL FALL. The customer is liable for all costs of repair or replacement to damaged nets, whatever the cause.
- (i) the framing of the house that the nets are in is to be braced in accordance to not inhibit the fall zone under the nets. Staff or contractors of Gotcha nets will setup to try and prevent as much risk as possible of accident, but will not be held accountable in anyway if there is damage to property or persons.

7. Condition of Nets and Loss or Damage

- 7.1 Customer acknowledges that the Nets are or will be hired under these Terms in a clean and new or near new condition, and that the Nets must be kept and delivered up to Owner in the same good clean and new (or near new, as the case may be) condition on expiry or earlier termination of the term without any allowance for wear and tear. Customer is liable for the full repair or replacement cost of the Nets if it is lost or damaged during the term (except loss or damage occurring during delivery or removal by Owner or its agents or contractors) or not delivered up in the foregoing condition on expiry or earlier termination of the term. Customer shall immediately upon demand by Owner pay the full amount required to repair or replace any lost or damaged Nets, except that where the loss or damage is covered by Owner's insurance (if any) over the nets then Customer's liability for such repair or replacement is limited to the excess which would be payable on a claim for such insured loss or damage by the Owner.
- 7.2 The Owner shall charge the Customer the full rental to hire the nets up to and including the date the Customer notifies the Owner that the nets have been lost, stolen and/or damaged beyond economic repair. From that date until the Owner has replaced the nets the Customer shall pay as a genuine pre-estimate of lost rental profit a sum as liquidated damages being equal to two-thirds of the rental that would have applied for that period. The Supplier shall use reasonable endeavours to purchase replacement nets as quickly as possible using monies paid by the Customer to do so.

8. Risk

- 8.1 Risk of the nets or any harm caused by, will pass immediately to the Customer when the nets leave the possession or control of the Owner.
- 8.2 Risk in the nets or any harm caused by, will not pass back to the Owner from the Customer until the nets are back in the physical possession of the Owner. This shall apply even if the Owner has agreed to cease charging the rental.

9. Indemnity

The Customer will indemnify and keep indemnified the Owner from and against all loss, damage, cost or expense incurred or suffered by the Owner which may arise in respect of the nets and its use or operation by the Customer or by any person and also in connection with any breach of the provisions of this Agreement by the Customer.

10. Insurance

The Customer shall arrange adequate public liability insurance in relation to any claim which could arise as a consequence of the use of the nets by the Customer.

The Owner shall not be liable for any damage sustained to any property or individual as a consequence of the erection of the nets

11. Miscellaneous

- 11.1 This contract for hire is personal to the Customer and is not capable of assignment by Customer. Owner retains full ownership and title to the Nets at all times. Time is of the essence in respect of all stipulations as to the time for payment of monies under these Terms. If full payment is not made by Customer to Owner of any monies payable to Owner under these Terms when due then Customer shall pay to Owner default interest at the rate of 2% per month on the outstanding monies calculated on a daily basis from the date payment was due until full payment is received and an administration charge of \$50 will also apply. Customer agrees and acknowledges that if Customer is hiring the Nets for the purposes of a business then the provisions of the Consumer Guarantees Act 1993 shall not apply. Owner shall not be liable to Customer for any consequential or economic loss, damage or expense incurred or suffered by Customer or any other person arising from any cause whatsoever (whether by reason of breach of contract, negligence or otherwise).
- 11.2 The Customer agrees that the Customer has inspected the nets components prior to execution of the Agreement and acknowledges that the nets components are in good and proper working order and condition.
- 11.3 GOTCHA safety nets staff will do a final inspection before producing a handover certificate and a recovery plan. The Customer acknowledges that the Customer relies solely on their own judgement in accepting the nets for hire under this Agreement.
- 11.4 No warranty or representation expressed or implied has been or is made by the Owner that the nets are now suitable and remains suitable or adequate for use by the Customer.
- 11.5 The Owner shall not be liable to the Customer for any direct or indirect consequential loss, damage, liability, cost, claim or expense incurred or suffered by the Customer in connection with any breakdown, non-performance or inadequate performance of the nets. The Customer will ensure prior to the erection of the nets that they have obtained all necessary approvals for its erection and shall ensure that at all times they have obtained all necessary permits for its constructions and that it complies with the provisions of all applicable statutes and/or rules and regulations in force.