

AIRWORKS

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General Terms and Conditions of Hire of Airworks Inflatables B.V.

Article 1 – Definitions and applicable terms and conditions

- 1.1. The following definitions are applicable to these General Terms and Conditions:
Airworks: The private company with limited liability Airworks Inflatables B.V., with its registered office and principal place of business at Flevolaan 7, (1382 JX) Weesp, registered in the Trade Register of the Chamber of Commerce in Amsterdam under number 34170530;
Renter: the natural person or legal entity with whom or in the name of whom one or more Agreement(s) is/are concluded with Airworks;
Hire Item: 'inflatables', including (but not limited to) inflatable items, product blow-ups and (theatre) decors to be hired out by Airworks to the Renter;
Agreement: the Agreement under which Airworks, as the renter, undertakes towards the Renter, as the Renter, to issue for use Hire Items or parts thereof and under which the Renter undertakes towards Airworks to deliver a counter performance, consisting of payment of the agreed rental, unless agreed otherwise in writing;
Hire Day: a successive period of 24 hours;
Parties: Airworks and Renter.
- 1.2. These Terms and Conditions are applicable to all Agreements between Airworks and its Renter(s). Unless the parties agree explicitly otherwise in writing, the applicability of any general purchasing, supply and/or other terms and conditions used by the Renter are explicitly excluded. If agreements are made between Airworks and its Renter (Parties) that deviate from these Terms and Conditions such agreements shall have to be recorded in writing.
- 1.3. Unless agreed otherwise in writing, these Terms and Conditions are also applicable, in the same way as described in Article 1.2, to any additional and/or follow-on orders.
- 1.4. These Terms and Conditions are also applicable to Agreements between Airworks and its Renter (Parties) for the performance of which Airworks is required to engage third parties
- 1.5. If one or more of the provisions in these Terms and Conditions is/are at any moment null and void or may be declared null and void in full or in part, the remaining provisions of these Terms and Conditions shall remain fully applicable. In that case the statutory regulations shall be applicable to the subjects regulated by the null and void and/or set aside provisions.
- 1.6. If there is any ambiguity regarding the interpretation of one or more of the provisions of these Terms and Conditions then that/those provision(s) shall be interpreted 'in the spirit' of the provision(s), with due regard for the background of the intention of the parties.

Article 2 – Quotes, offers & formation of Agreement

- 2.1. For the purpose of forming Agreements between Airworks and its Renter, Airworks issues quotes. The Agreement between Airworks and its Renter is formed on acceptance by the Renter of the offer(s) made in the quote. Acceptance is undertaken by written confirmation to Airworks, by return of the quote, signed to indicate acceptance.
- 2.2. All quotes and offers from Airworks are without obligation and do not bind Airworks until such time that the Agreement has been formed. A quote or offer shall be cancelled if the Hire Item to which the offer relates, is/are in the meantime no longer available.
- 2.3. Airworks cannot be bound to its quotes or offers if it can be reasonably understood by the Renter that the quotes or offers, or one or more elements thereof, contain an obvious error or mistake.
- 2.4. Unless stated otherwise, the prices quoted in the quote or offer exclude VAT and other government duties and costs that maybe incurred within the framework of the Agreement, including travel and accommodation costs and shipping and administration costs.
- 2.5. Airworks has the right to charge the Renter or offset with the Renter price changes that occur after the quote was issued. If unavoidable deviations in relation to the quote arise during the performance of the Agreement Airworks shall notify the Renter of these at the earliest possible stage. Exceeding the quotes by up to 10% is deemed acceptable by Parties as a budgetary risk, and is accepted after the Renter has been notified by Airworks.
- 2.6. If the acceptance, deviates from the proposal contained in the quote or offer, Airworks shall not be bound by this. The Agreement shall then not be formed in deviation of article 6:225 sub 2 DCC if the acceptance deviates in minor points.
- 2.7. Component pricing does not oblige Airworks to perform only part of the order at a corresponding element of the quoted price. Offers or quotes are not automatically applicable to future orders.

Article 3 – Duration of the Agreement

The basic principle is that a Agreement concluded between Airworks and the Renter shall be valid for the duration agreed in the Agreement. The Agreement shall legally end, without the need for notice of termination, after expiry of the agreed duration/end date. If, in an appropriate case, a Agreement is concluded for an undefined duration then this shall end via a notice of termination. Notice of termination – of at least one month in advance - is to be undertaken by registered letter with termination occurring on a day agreed for hire payment.

Article 4 – Inspection and complaints

- 4.1. The Renter is assumed to have received the Hire Item and other goods in a good and undamaged condition, unless evidence to the contrary is provided by the Renter.
- 4.2. Immediately after delivery / on receipt the Renter must inspect the Hire Item and other goods. Complaints regarding visible defects and/or missing goods must be reported to Airworks immediately after inspection. Defects which cannot be reasonably expected to be detected immediately after inspection must be notified to Airworks immediately in writing as soon as they are detected, though no later than 12 hours after delivery/receipt. In the event of a timely and valid complaint Airworks is not obliged to do more than replace or repair the relevant Hire Item at its own expense, or – insofar as the defect cannot be repaired and the Hire Item cannot be replaced – immediately terminate the Agreement without having to observe a notice period and in that case issue a credit note for invoices sent and refund the Renter with amounts already paid.

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- 4.3. A possible deviation regarding minor points in respect of the Hire Item compared to images, drawings, specifications and other documentation on the website forms no grounds for complaints. If a complaint only relates to a part of the Agreement this cannot result in cancellation/termination of the entire Agreement, unless the Agreement has to be deemed to be unfit as a whole.

Article 5 – Renter obligations

- 5.1. The Renter undertakes to be a good Renter for the Hire Items and other additional goods supplied and undertakes to maintain these in a good and unaltered condition in accordance with the description in the Hire Agreement and after the end of the agreed hire period to surrender the Hire Items and goods at the agreed location together with all accessories and associated documentation, unless agreed otherwise.
- 5.2. Only the Renter is authorised to use the Hire Item and the associated goods. Without the prior written permission of Airworks, the Renter is not permitted to allow the Hire Items and goods to be used, in full or in part, by another party. The Renter is not permitted to use the Hire Items and goods (or to allow these to be used) for a purpose that is in conflict with the law or for a purpose for which the Items are unsuitable.
- 5.3. If the Renter discovers faults on the Hire Items/goods then he must notify these immediately to Airworks. Failure to do so shall mean that the Renter is liable to pay Airworks compensation due to the damage caused by the omission. In that case, Airworks shall decide how and by whom the faults shall be resolved.
- 5.4. Theft, embezzlement or other misappropriation and/or seizure of the Hire Item/goods must be notified to Airworks immediately by the Renter. The Renter is obliged to report immediately theft, embezzlement or other misappropriation to the police on, embezzlement or misappropriation and to provide Airworks with a copy of the official report on that same day. If the Renter fails to comply with this obligation the Renter shall owe Airworks an immediately claimable penalty of € 75 for each breach, such being without prejudice to the right of Airworks to compensation for the loss it has suffered.

Article 6 – Renter liability

- 6.1. The Renter is liable for all damage (including but not limited to theft, embezzlement or other misappropriation and/or seizure of the Hire Item/goods) to the Hire Items and the other goods that arises through the failure to comply with one or more of his obligations under the Agreement. All damage is assumed to have arisen as a result of that. The Renter is liable for all damage arising from a breach of the aforementioned provisions, as well as for acts and omissions on the part of the Renter or third parties engaged by the Renter.
- 6.2. The Renter is liable for all costs, penalties and other measures relating to a breach of any legislation, plus a contribution towards the administrative costs of Airworks or third parties (at the rates maintained by these third parties).
- 6.3. If the Renter unlawfully retains the Hire Item and additional goods supplied after the end of the hire term, then Airworks can claim compensation for the time during which it does not have possession of the Hired Item, such compensation being equal to the hire charge, without prejudice, if its damage amounts to more than this compensation, to its right to this additional amount.

Article 7 - Airworks liability

- 7.1. Airworks is not liable for damage of any kind whatsoever that arises as a result of a failure by the Renter to observe one or more obligations under the Agreement, or because Airworks has assumed information issued by or on behalf of the Renter that is incorrect and/or incomplete. Nor is Airworks liable for damage of any kind whatsoever that arises as a consequence of force majeure, including – yet not limited to – damage due to the particular risks associated with the use of Hire Items in the open air as well as the consequences of fire, strikes, business interruptions and network faults, either at Airworks or at its suppliers.
- 7.2. Insofar as Airworks can be held liable for any type of damage the liability on the part of Airworks shall be limited to a maximum of 1 x the value of the invoice for the instruction and/or order, at any rate to that element of the instruction order to which the liability relates. The liability of Airworks is, in any event, always limited to the amount paid out by its insurer in the relevant case, irrespective of whether the invoice value for the instruction/order exceeds this amount.
- 7.3. Airworks is only liable for direct damage, which only means the reasonable costs to establish the cause and the extent of the damage, insofar as this determination relates to damage in the sense of these Terms and Conditions, any reasonable costs incurred to respond to any failure in Agreement performance on the part of Airworks - only insofar as this potential failure in performance is attributable by virtue of guilt, legal action or generally accepted principles – as well as the reasonable costs to prevent or limit the damage, insofar as the Renter is able to demonstrate that these costs are related to limiting the direct damage as set out here.
- 7.4. Airworks excludes liability for indirect damage, including consequential loss, loss of profit, lost savings and loss caused by business stoppage.

Article 8 - Deposit and payment terms

- 8.1. Airworks is at all times entitled to demand payment of a deposit from the Renter prior to any hire. Airworks is entitled to use the deposit received to offset against all of that which it has to claim from the Renter for the hire or in relation to the Hired Item. This offset can also be undertaken during the term of the Hire Agreement. In the latter case, Airworks can demand that the Renter replenishes the deposit again. Airworks shall not owe any interest on the deposit. It shall only be obliged to repay the deposit or remainder thereof after it has been reasonably established that Airworks no longer has or shall have anything more to claim from the Renter. If the Renter fails to pay a deposit on time then Airworks shall be entitled to unilaterally terminate a Agreement, without prejudice to Airworks' right to damages.
- 8.2. Unless agreed otherwise in writing between Airworks and the Renter, the agreed hire instalment must be credited to the Airworks bank account in full prior to the start of the hire period, or prior to the delivery/availability of the Hire Item and the other goods. The term for payment of an invoice (sent subsequently) is 7 days, unless stated otherwise on the invoice. This period is a strict deadline

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- 8.3. The Renter is not entitled to offset the payment for the rental owing against any counterclaim, nor is the Renter entitled to suspend payment of the rental.
- 8.4. If the Renter fails to meet its payment obligations on time then it shall be in default – without the need for notice of default – and shall owe interest at 5% per month, whereby a part of a month shall count as a full month.
- 8.5. In the event of default the Renter shall also owe extrajudicial costs of 15% of the principal sum, subject to a minimum of € 250, such being without prejudice of Airworks' right to claim the actual costs.

Article 9 - Termination

- 9.1. Airworks is entitled to terminate the Agreement without notice of default and without legal intervention, amongst others, the following cases:
 - a. attributable failure on the part of the Renter to meet its obligations;
 - b. the death of the Renter or the Renter going into receivership;
 - c. application by the Renter for suspension of payments, bankruptcy or approval under Netherlands Debt Rescheduling (Natural Persons) Act.
 - d. establishment of the Renter abroad;
 - e. a breach of clauses 5.2 and 5.4 of these Terms and Conditions
- 9.2. In the event of termination of the Hire Agreement the Renter undertakes to return to Airworks all rented Items.
- 9.3. Obligations to nullify are not applicable to any rental that has been paid.
- 9.4. Airworks is entitled to damages in the event of termination as referred to in paragraph 1 sub a and e of this Article

Article 10 – Cancellation

A Agreement can only be cancelled by written request from the Renter and by written approval from Airworks and on payment of cancellation charges.

The cancellation charges amount to:

40% of the rental if cancellation is more than 3 months prior to the start of the hire period, 50% of the rental if cancellation is more than 2 months prior to the start of the hire period, 60% of the rental if cancellation is more than 1 month prior to the start of the hire period, 70% of the rental if cancellation is less than 1 month prior to the start of the hire period, 80% of the rental if cancellation is less than 1 week prior to the start of the hire period.

Article 11 - Delivery address

- 11.1. If Airworks undertakes the erection the Renter shall, in principle, determine the location at which the Hired Item is to be erected. The Renter is responsible for the correct marking of the location where the Hired Item is to be erected. Furthermore, the Renter is to be present on commencement of the works in order to indicate the marking. If the Renter is not present on commencement of the works the erection shall be deemed to have been undertaken in accordance with the order and evidence to the contrary shall not be permitted.
- 11.2. The Renter guarantees that the Hired Item can be erected at the location in a safe manner and without the risk of damage to other people's property and/or infringement of other people's rights. The Renter is obliged to notify Airworks about the presence of wires, cables, pipes and other work on or in the ground.
- 11.3. The site on which the Hired Item is to be erected must be easily accessible and capable of being driven on. Airworks can demand that the Renter allocates a different location if the location designated by the Renter is deemed unsuitable and/or unsafe and/or is not without risk of damage. The Renter cannot appeal to the renter if Airworks does not invoke this authority.
- 11.4. The Renter guarantees that on the day that is agreed for delivery and/or erection of the Hired Item by Airworks, all agreed power points, cabling, suspension points, truss scaffolding and cherry picker, etc. shall be ready. Facilities that may be required for these are to be provided by the Renter and shall be entirely at the expense of the Renter.
- 11.5. Damage to the site and/or buildings, lines, pipes or other objects on or in the ground that is caused by erecting and keeping erect the Hired Item shall be /remain at the expense of the Renter.
- 11.6. The Renter is responsible for the (costs of) power supply and power consumption. The Airworks prices are based on the fact that the hired goods can be delivered to easily accessible locations at ground level. The costs for work stoppage as a result of this shall be at the expense of the Renter. Airworks is authorised to charge the Renter for extra costs incurred in relation to the delivery and recovery. If, in the opinion of the renter, there are unsafe and unworkable conditions, including weather conditions or the weather forecast, the renter is entitled to suspend or stop the assembly / disassembly work, without the Renter being entitled to claim any compensation in respect of this.

Article 12 - Other

- 12.1. In the event that one or more provisions of this Agreement are null and void the other provisions shall remain in full force.
- 12.2. Unless the Renter has notified changes to its address the Renter shall be deemed to be domiciled at the address notified by the Renter when entering into the Agreement.

Article 13 - Applicable law and competent court

- 13.1. The relationship between Airworks and its Other Parties is governed exclusively by Dutch law, even if an obligation is undertaken abroad in part or in full or if the party involved in the legal relationship is domiciled abroad. The applicability of the Vienna Sales Convention is excluded.
- 13.2. All disputes arising from or relating to concluded Agreements shall be decided exclusively by the competent court in the district in which Airworks is established. Airworks, however, has the right to bring the dispute before the competent court specified in law.