

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

These Standard Terms and Conditions represent along with the Quotation, and Special Conditions the offer by TDC to you ("the Customer") to hire the Equipment and provide Services to you and if you accept the Quotation these Standard Terms and Conditions with the Quotation, and Special Conditions will be and will constitute the whole of the Contract with you.

1. DEFINITIONS AND EXPLANATIONS

In these Standard Terms and Conditions, and the Contract, the following words and phrases will have the following meanings:

"Contract" means the Contract between TDC and the Customer for the hiring of the Equipment and/or the provision of Services the terms of which are fully set out in the Quotation and these Standard Terms and Conditions and any additional Special Conditions.

"Customer" means the company or person described in the Quotation as "the Customer" and includes where applicable its owners, principals, lawful successors, assignees and contractors.

"Day" means a period of 24 hours.

"Day-Rate" means the AUS\$ rate per Day for the hire of the Equipment as shown in the Quotation. If no rate per Day is provided in the Quotation the Day Rate will be the lesser of the Hire Fee divided by the number of Days in the Period of Hire or the Australian market rate for daily hire of the Equipment or relevant piece of Equipment.

"Delivery" means the delivery of the Equipment to the Customer, its employees, servants or agents or to the Venue or the collection of the Equipment by the Customer, its employees, servants or agents.

"Equipment" means collectively all the Equipment described in the Quotation (including all necessary components and accessories not specifically listed in the Quotation) and separately each item of the Equipment designated in the Quotation.

"Facilities" means all electrical services, structures, scaffolding, lighting, rigging, awnings and other requirements necessary in order to facilitate the proper and safe installation and use of the Equipment on the Venue.

"GST" means Goods and Services Tax as defined in A New Tax Act (Goods and Services) 1999.

"Hire Fee" means the fee exclusive of GST which the Customer has by this Contract agreed to pay to TDC for the hire of the Equipment and/or the provision of Services.

"Manufacturer" means in respect to each item of Equipment the identified Manufacturer of that item of Equipment.

"Period of Hire" means the period for which it is agreed that the Equipment is to be hired by the Customer as specified in the Quotation.

"Quotation" means the Quotation (in its most recent revision) issued by TDC outlining the Equipment and Services.

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

"Return" means return of all of the Equipment to TDC at its Warehouse or collection of all of the Equipment by TDC at the Venue which ever is agreed.

"Services" means the provision of labour by TDC (its servants agents or lawful contractors) including but not limited to labour for production planning, event management, project management, logistics, Equipment delivery, set-up, operation, pack-down and collection.

"Venue" means the safe designated places, venues, sites, locations at which the Equipment is to be delivered to and/or set up and/or stored during the Period of the Hire and until Return and at which place the Customer is to take possession of the Equipment.

"Special Conditions" means any special conditions set out in the Quotation or agreed in writing between the Parties.

"TDC" means the Technical Direction Company of Australia Pty Ltd (inc NSW) (ACN 002 096 933) (ABN 21 002 096 933) its, employees, staff, servants, agents and contractors.

"Technical Direction Company of Australia Pty Ltd" means The Technical Direction Company of Australia Pty Ltd (inc NSW) (ACN 002 096 933) (ABN 21 002 096 933) its, employees, staff, servants, agents and contractors.

"Warehouse" means TDC's Warehouses at; Unit 2, 33 Bowden Street, Alexandria NSW 2015 *and/or* 39 Bayside Avenue, Port Melbourne, VIC 3207 *and/or* (or any premise TDC uses to store Equipment and/or conduct business from).

"You" and "Your" means the Customer.

A reference to a Statute Rule or Regulation is a reference to that Statute Rule or Regulation as amended, re-enacted or modified from time to time.

The headings in these Standard Terms and Conditions are for convenience only and will not affect their construction.

A reference to any party will include their lawful successors and assigns.

2. BINDING CONTRACT

2.1. This Contract is entered into and will be binding on TDC and the Customer upon the Customer's acceptance of the Quotation. The Customer agrees that it will be deemed to have accepted the Quotation if it:

- A) Accepts the Quotation in writing by facsimile, email or letter; or
- B) Accepts the Quotation verbally to any TDC employee, servant or agent; or
- C) Takes delivery or collects any of the Equipment; or
- D) The Services are performed.

2.2. Until the Customer has accepted the Quotation, TDC may at any time withdraw the Quotation by email, facsimile or letter to the Customer.

2.3. All Equipment is available as listed in the Quotation only at the time of the Quotation. If the Quotation is not accepted in writing by the Customer within seven days of the date of the Quotation, TDC reserves the right to substitute

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

some or all of the Equipment or provide only part of the Equipment, due to Equipment as listed in the Quotation no longer being available.

2.4 The date of this Contract is the date of acceptance by the Customer of the Quotation.

3. TERMS OF PAYMENT

3.1. The Customer will pay to TDC the Hire Fee (plus GST) without deduction as per the Payment Terms set out in the Quotation unless otherwise specified in the Quotation, the Hire Fee (plus GST) will be paid in full within seven (7) days of the date of the relevant TDC Tax Invoice

3.2. Without limiting the circumstances in which TDC may require the Hire Fee to be paid on a cash in advance basis, and unless otherwise stated in the Quotation, if any of the Equipment has to be manufactured, purchased, adapted or any process has to be applied to existing items of the Equipment to match with the Customer's specific requirements the Customer will pay the Hire Fee on a cash in advance basis before any manufacturing, purchasing, adaptation or processing of the Equipment takes place.

3.3. Any Discount on Equipment provided by TDC in the Quotation will only be applied if the Customer makes payment in full in accordance with the Payment Terms.

3.4. If the Customer does not make a payment or part payment due under this Contract including but not limited to payment of Hire Fees, Cancellation Fees or Day-Rates, TDC may charge and the Customer shall pay interest on all overdue amounts at a rate of the lesser of 1% per month and the maximum amount permitted by law, and the parties agree that such interest is not a penalty but is a true measure of the damages incurred by TDC as a result of late payment by the Customer.

4. THE EQUIPMENT

4.1. The Equipment will at all times remain the property of TDC. The Customer will have no legal, beneficial or equitable interest in the Equipment or any part of it. The Customer's possession of the Equipment upon Delivery will be as a bailee for the Period of Hire and/or until Return.

4.2. This is a hire agreement only and does not constitute or give rise to any sale of the Equipment to the Customer, any hire purchase agreement or arrangement with the Customer or any leasing agreement that contains an option to purchase the Equipment. The relationship between TDC and the Customer is limited to a relationship of owner and bailee in respect to the Equipment.

4.3. Upon Delivery, the Equipment may be inspected by the Customer to determine whether the Equipment delivered is complete in accordance with the Contract and is in good order and working condition. Upon Delivery the Customer will be deemed to have satisfied itself that the Equipment is suitable, fit, merchantable and capable of meeting all the requirements of the Customer. It is the Customers' responsibility to immediately following Delivery notify TDC of any damage, defect, concern, dissatisfaction, errors or faults with the Equipment or Services.

4.4. If any damage, defect, failure, shortage or malfunction of the Equipment is not notified by the Customer to TDC, in writing, within 24 hours of Delivery the Customer is deemed to have accepted the same.

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

4.5. Unless TDC has expressly agreed, in writing, to advise on the suitability, fitness or merchantability of the Equipment for the Customer's purpose, TDC does not warrant as to suitability, fitness or merchantability of the Equipment for the Customer's purpose and the same is hereby excluded.

4.6. TDC will not be responsible for any act, omission, decision, direction or order in relation to the use of the Equipment or otherwise of the Customer or its employees, servants, agents, contractors, guests, clients, contractual counterparts or otherwise.

4.7. The Customer is a bailee of the Equipment. In addition to all duties imposed at law upon bailees from Delivery to Return, the Customer will:

4.7.1 At all times exercise all reasonable care, skill and diligence in the use of the Equipment in accordance with manufacturer's guidelines, manuals and specifications and/or any instructions provided by TDC.

4.7.2. Maintain all of the Equipment in good order and full working condition from Delivery to Return.

4.7.3. Return all of the Equipment to TDC in good order and full working condition prior to the expiration of the Period of Hire.

4.7.4. Where TDC is to collect the Equipment, at the expiration of the Period of Hire, make it available for collection in good order and full working condition prior to the expiration of the Period of Hire.

4.7.5. Not tamper or in any way interfere with, or repair, or attempt to repair any of the Equipment.

4.7.6. Be responsible and indemnify TDC for any and all accidental loss of or damage to some or all of the Equipment, save and except where such damage is caused solely by TDC.

4.7.7. Be responsible and indemnify TDC for any and all loss of or damage to some or all of the Equipment occasioned by theft, malicious damage, or other unlawful act.

4.7.8. At no time part with possession of the Equipment or in any way deal with it in a manner inconsistent with the rights of TDC as owner.

4.7.9. Ensure that the Equipment is safe and secure at all times, and where being stored in unlocked premises, supply such security measure to ensure that the Equipment is safe and secure at all times.

4.7.10. Not remove or deface any label, Manufacturer's serial numbers or other marks identifying the Equipment and/or TDC's ownership of the Equipment.

4.7.11. Not permit or in any way facilitate any person to use, handle or treat the Equipment in a manner inconsistent with the terms of the Contract.

4.7.12. Be responsible for any and all loss of or damage to the Equipment caused by laser technology, pyrotechnics, liquid, heat, moisture, sand and smoke related effects or other damaging materials.

4.8. If the Equipment, or any part of it, is lost, stolen or damaged during the period from Delivery to Return, in circumstances where the Customer bears responsibility under these Terms, the Customer will pay TDC :

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

- A) the costs and expenses of replacing all lost or stolen Equipment (if the Equipment cannot be replaced with identical make and model then the costs and expenses of the closest substitute make and model fulfilling substantially the same functions and specification as the lost or stolen Equipment) ; and/or
- B) the cost and expenses of repairing all damaged Equipment; and/or
- C) the costs and expenses of replacing all Equipment which, in the sole determination of TDC, is damaged beyond repair or cannot be brought back to the condition pre Delivery (if the Equipment cannot be replaced with identical make and model then the costs and expenses of the closest substitute make and model fulfilling substantially the same functions and specification as the damaged Equipment) ; and/or
- D) indirect and consequential losses caused by the loss of or damage to the Equipment including but not limited to the Day Rate multiplied by the number of days from end of the Period of Hire until the successful repair or replacement of the lost, stolen or damaged Equipment and all lost earnings; and/or
- E) The Customer will fully indemnify TDC for any other liability, loss or cost that TDC may sustain by reason of TDC being unable to meet any other contractual obligation to supply the Equipment (or any part thereof) to any other person.

4.9. If the Customer fails, for any reason whatsoever, to Return the Equipment before the end of the Period of Hire, then the Customer will be in continuing breach of Contract until such time as the Customer Returns the Equipment. Without prejudice to any other rights which TDC may have, either pursuant to the Contract or at law, the Customer will be liable to pay TDC the Day-Rate per Day for the period from the end of the Period of Hire until the Customer Returns all of the Equipment and the Customer will indemnify TDC for any other liability, loss or cost that TDC may sustain by reason of TDC being unable to meet any other contractual obligation to supply the Equipment (or any part thereof) to any other person.

5. SERVICES

5.1. Where TDC provides Services to a Customer at a Venue it is a condition of the Contract that the Customer will:

- 5.1.1. Ensure that TDC, its employees, servants and agents are able to access the Venue at all times specified by TDC and at all other reasonable times so as to enable TDC to provide the Services including but not limited to access to the Venue to dismantle and remove the Equipment from the Venue at the end of the Period of Hire;
- 5.1.2. Ensure that the Equipment, when installed by TDC remains in place at the Venue for the Period of Hire and that the Venue is not required for any other purpose which would require the Equipment to be dismantled and re-installed or which may put the whole or any part of the Equipment at risk of being lost, stolen, damaged or destroyed;
- 5.1.3. Do all such things as are necessary to discharge TDC's and the Customer's obligations under all applicable Occupation Health and Safety legislation, regulations and codes of practice and to ensure that the Venue and the Equipment as installed are safe and free from defects and do not expose TDC's employees, servants, agents or contractors to danger or harm whether physical or psychological or other.
- 5.1.4. Ensure that where the Equipment is being installed on any structure, rigged or held in place by any structure that the structure is of sufficient strength and properly erected and constructed so as to be safe and able to easily withstand the loads involved in holding the Equipment.

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

5.1.5. Ensure that the location where the Equipment is being installed is suitable for such installation and all necessary permissions and approvals from the owners of the Venue, and local, State and Federal government authorities have been obtained.

5.1.6. Ensure that the Venue is at all times safe for all of TDC's employees, servants, agents and contractors.

5.2. The Customer acknowledges that TDC may in providing the Services be dependent upon the Customer or other third party or contractors preparing the Venue for the Equipment or its installation. TDC will not be liable for any delay in installing the Equipment or providing the Services where such delay is a consequence of any act or omission on the part of the Customer or other third party or contractor.

5.3. It is the exclusive responsibility of the Customer to ensure that the Venue:

- (i) Is safe for the installation, use and storage of the Equipment;
- (ii) Has all required Facilities in place, safe and in good working order;
- (iii) Is safe for the provision of the Services.

6. DEFAULT EVENTS

6.1. The Customer will be "in Default" if:

6.1.1. It breaches any condition of this Contract;

6.1.2. It breaches any of its obligations under this Contract and fails to remedy the same within seven (7) days of being requested by TDC to do so;

6.1.3. Insolvency: Where the Customer being a corporation, is insolvent, is wound-up, or goes into compulsory or voluntary liquidation or has an administrator appointed to it or has a receiver appointed over any of its assets or any event analogous to any of the foregoing occurs in any jurisdiction. Where the Customer being a natural person, he or she is or becomes insolvent or makes an assignment for the benefit of his or her creditors, or commits an act of bankruptcy or is declared bankrupt or any event analogous to any of the foregoing occurs in any jurisdiction.

6.2. On the Customer being in Default TDC may terminate this Contract.

6.3. On the Customer being in Default, TDC may, without prejudice to any of its other rights either under the Contract or at law and without notice to the Customer, enter the Venue where TDC believes the Equipment to be located and re-possess the Equipment and any items owned by TDC. The Customer hereby agrees to allow access and not to make any claim or bring any action against TDC as a result of the re-possession of the Equipment.

6.4. The Customer agrees to indemnify TDC and keep TDC indemnified against any loss, liability, expense or cost which might be incurred by TDC in entering the Venue and taking possession of the Equipment or any item owned by TDC. Such indemnity will cover any liability to any third party for trespass or for damage to the Venue occasioned through the entry upon the Venue, the re-possession of the Equipment or its removal from the Venue.

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

7. WARRANTIES, LIMITS and EXCLUSION OF LIABILITY

7.1. TDC gives no warranty express or implied in respect of the Equipment or the Services, its fitness for purpose or the condition thereof and excludes all warranties and obligations implied by legislation save for those which cannot be legally excluded.

7.2. Notwithstanding anything herein contained, should TDC be bound by a consumer guarantee under the *Australian Consumer Law* (C'wth) or the *Fair Trading Act* (NSW) 1987 and any similar or relevant legislation but only to the extent that such legislation is applicable to this Contract and prevents the exclusion, restriction or modification of the guarantee and subject to the exceptions contained in that legislation, in such case, the liability of TDC is limited to the supplying of the services again or the payment of the cost of having the services supplied again, as determined by TDC.

7.3. Save as set out at clause 7.2 above TDC will not be liable whether in contract, tort (including without limitation negligence or breach of statutory duty) or otherwise for any loss damage or injury of whatsoever kind or nature (including indirect or consequential loss or damage including but not limited to profit, reputational, commercial or business losses) sustained by the Customer, its business partners, employees, servants, agents or contractors and which is in any way, attributable to the Equipment or Services, its installation or use except where such loss damage or injury is attributed to a negligent act or omission or gross negligence, recklessness or wilful misconduct on the part of TDC its employees, servants, agents or contractors.

8. CANCELLATION FEES

8.1. The Customer will pay TDC the following cancellation fees in circumstances where the Customer cancels any of the Services or Equipment ("the Cancelled Items"):

8.1.1. twenty-five percent (25%) of the Cancelled Items price as indicated on the Quotation if TDC receives written notice of cancellation from the Customer fourteen (14) or more business days prior to the beginning of the "Period of Hire" date shown on the Quotation; or

8.1.2. fifty percent (50%) of the Cancelled Items price as indicated in the Quotation if TDC receives written notice of cancellation from the Customer seven (7) or more business days (but less than fourteen (14)) days prior to the beginning of the "Period of Hire" date; or

8.1.3. one hundred percent (100%) of the Cancelled Items price as indicated on the Quotation if TDC receives written notice of cancellation from the Customer six (6) business days or less prior to the beginning of the "Period of Hire" date.

8.2. Any cancellation of the Contract or any part of it by the Customer must be notified to TDC by the Customer in writing.

9. TDC EMPLOYEES

9.1. Every employee, servant, agent or sub-contractor of TDC will have the benefit of all provisions herein benefiting TDC as if such provisions were expressly for its benefit, and in entering into this contract, TDC, to the extent of these provisions, does so not only on its own behalf, but also as agent and trustee for such parties.

9.2. The Customer undertakes that no claim or allegation will be made against any contractor, subcontractor, employee, person or other party by whom the Services and Equipment is arranged, performed or undertaken (other than TDC) which imposes or attempts to impose upon any such party any liability whatsoever in connection with the Services and

STANDARD TERMS AND CONDITIONS

TECHNICAL DIRECTION COMPANY OF AUSTRALIA PTY LIMITED (ACN 002 096 933) (ABN 21 002 096 933)

Equipment whether or not arising out of negligence on the part of such party and if any such claim or allegation should nevertheless be made to indemnify TDC against all consequences thereof.

9.3. The Customer undertakes to indemnify TDC against any claim or allegation made against it by any person in connection with any liability and/or arising out of or in relation to the provision of the Services and Equipment.

10. INSURANCE

10.1. It is the responsibility of the Customer to ensure they have adequate and appropriate insurance for the project, event and/or site, including (but not limited to) Public Liability insurance and overall Event Insurance. The insurance(s) should cover the Customer and all of their respective employees, servants, agents and sub-contractors involved in the Services for their respective rights and interests and covers their liabilities.

11. ILLEGALITY

11.1. If at any time any provision of the Contract is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair the legality, validity or enforceability in that of any other provision of the Contract

11.2. If at any time any provision of this Contract is or becomes illegal, invalid or unenforceable in any respect but that by limiting such provision it would become valid and enforceable then such provision will be deemed to be written, construed, and enforced as so limited.

12. FORCE MAJEURE

12.1. TDC will not be liable for its failure to perform any of its obligations under this Contract if such failure is the result of or caused directly or indirectly by act of god, fire, casualty, flood, earthquake, storm, natural disaster, war, invasion, act of foreign enemies, hostilities, terrorist activity, rebellion, revolution, civil unrest, strike, lock out, sanction, blockage, labour dispute, failure of electricity, telephone or other amenity, or any other cause whatsoever beyond the control of TDC.

13. LAW, JURISDICTION AND TIME BAR

13.1. This Agreement is governed by and must be construed according to the laws of New South Wales, Australia.

13.2. Each Party irrevocably submits to the exclusive jurisdiction of the Supreme Court of New South Wales, and the courts competent to determine appeals from that Court, for the purposes of the enforcement of the terms of this Agreement and in relation to any dispute arising at any time between the Parties under or in respect of this Agreement, the construction and application of the terms of this Agreement and/or the Parties' respective obligations under this Agreement.

13.3. Each Party irrevocably waives any objection it may now or in the future have to the venue of any proceedings being the Supreme Court of New South Wales, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum.

13.4. Any right to damages against TDC will be extinguished unless action is commenced within six (6) months from the date of Return or completion of the Services whichever date occurs first.