

Theatre Safe Australia Pty Ltd (ACN 167 479 101) as the Trustee for Theatre Safe Australia Unit Trust (ABN 35 164 052 425), TSA Projects Pty Ltd (ACN 678 346 944), Theatre Safe Australia Group Pty Ltd (ACN 167 482 662) and Reveal Theatrical Pty Ltd (ACN 673 329 354).

Interpretation

“Customer” means the party to whom the equipment is hired or goods and services supplied.

“Day Rate” means a 10 hour day, at rates prescribed by THEATRE SAFE AUSTRALIA.

“Equipment” means all equipment and each item and part thereof supplied by THEATRE SAFE AUSTRALIA under these terms.

“Goods” means all goods supplied by THEATRE SAFE AUSTRALIA which may include services as specifically defined.

“Hire” means the temporary supply of rental equipment for a fixed term as set out in the hire agreement with THEATRE SAFE AUSTRALIA. . THEATRE SAFE AUSTRALIA at all times retains ownership of the equipment.

“THEATRE SAFE AUSTRALIA” means Theatre Safe Australia PTY LTD (ACN 167 479 101) as trustee for Theatre Safe Australia Unit Trust and all related entities including but not limited to TSA Projects Pty Ltd (ACN 678 346 944), Theatre Safe Australia Group Pty Ltd (ACN 167 482 662) and Reveal Theatrical Pty Ltd (ACN 673 329 354).

“Services” means the services which Theatre Safe Australia is to provide pursuant to the terms set out in this agreement.

“Site” means any location other than THEATRE SAFE AUSTRALIA’s offices where the services are to be provided.

“Terms” means the contract between THEATRE SAFE AUSTRALIA and the Customer.

“Purchaser” shall mean the persons, company, firm or other entity for whom sales, service or installation work has been offered by Theatre Safe Australia.

“Work Site” shall mean any location where goods or services are to be delivered or performed by Theatre Safe Australia.

Provision of Services or Equipment

2.1 THEATRE SAFE AUSTRALIA and the Customer shall accept provision of Services or Equipment are subject to these Terms which shall not be varied, except in writing signed and accepted by a duly appointed representative of THEATRE SAFE AUSTRALIA.

2.2 The Customer acknowledges that it does not rely on any advice or recommendations made on behalf of THEATRE SAFE AUSTRALIA concerning the Services or Equipment, their quality, performance, fitness for purpose, functionality or use unless confirmed by THEATRE SAFE AUSTRALIA in writing.

2.3 THEATRE SAFE AUSTRALIA reserves the right (but without reducing its obligations under section 5 of these Terms and Conditions) to sub-contract all or any of its obligations to provide goods and services.

2.4 Any typographical or clerical error or omission in documents issued by THEATRE SAFE AUSTRALIA may be corrected without liability on the part of THEATRE SAFE AUSTRALIA.

2.5 Any Offer is made subject to the Standard Terms and Conditions as detailed in this document and any “Client Information Update” relating to the proposed works. No additional documentation,

correspondence, verbal agreement or conversation shall vary these terms unless agreed in writing by THEATRE SAFE AUSTRALIA.

2.5.5 Where an Offer from THEATRE SAFE AUSTRALIA contains specific variations to these terms, those specific variations supersede this document.

2.5.6 Where an order from the Purchaser stipulates additional conditions or variance to existing conditions that are not in accord with this document, those conditions are not accepted unless agreed in writing by THEATRE SAFE AUSTRALIA.

2.5.7 In the event that one or more clauses of this document, or anything included in THEATRE SAFE AUSTRALIA's Offer is held by a Court of Law to be legally invalid or unenforceable, the remainder of the conditions shall be in no way affected.

2.5.8 All descriptive information, including but not limited to dimensions, weights and drawings submitted by THEATRE SAFE AUSTRALIA are approximate only, unless specifically detailed in the supplied quotation..

Risk and Property

3.1 The Customer undertakes to indemnify THEATRE SAFE AUSTRALIA in respect of any loss or damage (reasonable wear and tear excepted) to any Equipment offered for Hire and shall at its own expense insure the Equipment against all loss (including loss of earnings and other consequential loss) that THEATRE SAFE AUSTRALIA may incur. Any equipment lost or uneconomic to repair shall be replaced by the Customer at the Customer's own expense with new equipment of the same or similar specification.

3.2 All equipment on hire shall remain the absolute property of THEATRE SAFE AUSTRALIA and no proprietary interest in the equipment shall vest in or pass to the Customer.

3.3 Notwithstanding the terms of any conditions, warranties or representations whether express or implied and whether statutory or otherwise THEATRE SAFE AUSTRALIA shall not be liable in any way for loss, damage, loss of contracts or any consequential loss of any kind suffered by the Customer or any third party or for any delay, late delivery, defect or deficiency of or relating to any equipment or ancillaries being available or any failure, error or mistake by any technician or other staff provided by THEATRE SAFE AUSTRALIA.

Customer's Obligations

The Customer undertakes to THEATRE SAFE AUSTRALIA:

4.1 to take all reasonable care of the equipment to ensure its physical safety and security whilst in the possession or control of the Customer or on Site.

4.2 to notify THEATRE SAFE AUSTRALIA in writing of any change in the Customer's address or other contact details.

4.3 to procure all necessary licences and permissions relating to any acts of broadcasting, projection, recording, transmission or other communication and the use of live pre-recorded material for such purpose and to indemnify THEATRE SAFE AUSTRALIA against all loss, damage, costs and expenses incurred by THEATRE SAFE AUSTRALIA relating to any claim that the use, broadcast, projection, recording, transmission or other communication of any material infringes any copyright, trade mark or other intellectual property rights of any third party or is undertaken without a valid and effective licence or permission from any relevant licensing or other regulatory authority in the territory concerned.

4.4 to provide THEATRE SAFE AUSTRALIA with free access to such facilities/amenities on Site at such times as THEATRE SAFE AUSTRALIA may reasonably require to enable THEATRE SAFE AUSTRALIA to provide its services.

4.5 to take all reasonable precautions to protect the health and safety of THEATRE SAFE AUSTRALIA's employees and sub-contractors.

4.6 to ensure that the Equipment is used in a proper manner without risk to health and safety and not contrary to any law or for any purpose for which the Equipment is not designed or suitable.

4.7 not to modify the Equipment or to remove any notices, labels or serial numbers.

4.8 not to sell, sub-let or otherwise dispose of or part with any Hire Equipment or interest therein but to keep the Equipment in its possession and control free from lien charge or encumbrance so that any Hire Equipment shall at all times remain the property of THEATRE SAFE AUSTRALIA.

4.9 not to remove the equipment from Australia without prior consent of THEATRE SAFE AUSTRALIA.

4.10 If any Hire 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 THEATRE SAFE AUSTRALIA:

- 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 THEATRE SAFE AUSTRALIA, 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 THEATRE SAFE AUSTRALIA for any other liability, loss or cost that THEATRE SAFE AUSTRALIA may sustain by reason of THEATRE SAFE AUSTRALIA being unable to meet any other contractual obligation to supply the Equipment (or any part thereof) to any other person.

4.11 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 these Terms until such time as the Customer returns the Equipment. Without prejudice to any other rights which THEATRE SAFE AUSTRALIA may have, either pursuant to these Terms or at law, the Customer will be liable to pay THEATRE SAFE AUSTRALIA 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 THEATRE SAFE AUSTRALIA for any other liability, loss or cost that THEATRE SAFE AUSTRALIA may sustain by reason of THEATRE SAFE AUSTRALIA being unable to meet any other contractual obligation to supply the Equipment (or any part thereof) to any other person.

4.12 To provide reasonable height access equipment in order to undertake the required task, unless otherwise specifically stated on Theatre Safe Australia's quote.

THEATRE SAFE AUSTRALIA's Obligations

5.1 THEATRE SAFE AUSTRALIA shall use its reasonable endeavours to provide the Equipment and Services in all material respects in accordance with these Terms exercising all reasonable care and skill.

5.2 THEATRE SAFE AUSTRALIA shall have no liability for any losses incurred by the Customer where the Customer fails to notify THEATRE SAFE AUSTRALIA of an issue causing loss, by providing reasonable details in writing, within three months from the first occurrence.

5.3 THEATRE SAFE AUSTRALIA shall not be liable to the Customer by reason of delay or failure in performing any of THEATRE SAFE AUSTRALIA's obligations due to any cause beyond THEATRE SAFE AUSTRALIA's reasonable control including without limitation industrial actions or trade disputes.

5.4 THEATRE SAFE AUSTRALIA shall not be liable for costs to replace or return lost or damaged samples, plans, specifications or other such materials provided by the Customer

5.5 Any liability of THEATRE SAFE AUSTRALIA whether in contract or otherwise not excluded hereunder shall be limited to the contractual hire fee.

Prices and Payment

6.1 The prices of Equipment and Services shall be stated in THEATRE SAFE AUSTRALIA's quotation or other order acknowledgment provided that any additional equipment subsequently required shall be chargeable in addition.

6.2 THEATRE SAFE AUSTRALIA reserves the right to increase the price to reflect any increase in cost due to any factor beyond the control of THEATRE SAFE AUSTRALIA or delay caused by the Customer at any time given by notice in writing.

6.3 The Customer shall pay the price of the Hire, Purchase or Services within 30 days on the date of invoice unless other payment terms have been agreed in writing by THEATRE SAFE AUSTRALIA.

6.4 Should the Customer fail to pay any sum on the due date then, without prejudice to any other right or remedy, THEATRE SAFE AUSTRALIA may cancel this contract, suspend provision of Services, remove Equipment from Site and/or charge interest on the unpaid amount at the rate of 10% per annum.

6.5 Should the Customer fail to pay any sum on the due date then THEATRE SAFE AUSTRALIA reserves the right to send the account to a collection agency for the outstanding sum. Any costs involved in this collection shall be paid by the Customer.

Cancellations

7.1 In the event of cancellation of any Hire order by the Customer, the following charges will apply:

100% charge if cancelled within 24 hours prior to collection or despatch

75% charge if cancelled within 72 hours prior to collection or despatch

50% charge if cancelled within 7 days prior to collection or despatch

Any cancellation must be communicated to THEATRE SAFE AUSTRALIA in writing via email.

7.2 In the event of cancellation of any order for the provision of goods and/or services by the Customer, the following charges will apply:

100% charge if cancelled after installation or shipping

All other cancellations will be invoiced for the full amount for all items prepared or paid for by Theatre Safe Australia including any labour costs or freight costs if cancelled after Theatre Safe Australia has received a Purchase Order from the customer.

7.3 Theatre Safe Australia may at its discretion and with due consideration may be required to cancel an order at any time before Goods are delivered. The Purchaser acknowledges and agrees that Theatre Safe Australia shall not be liable for any loss or damage whatsoever arising from such cancellations

Termination

8.1 In the event of bankruptcy, insolvency or liquidation of the Customer or if the Customer ceases or threatens cessation of business or THEATRE SAFE AUSTRALIA reasonably apprehends that the aforesaid is about to occur or if the Customer is in breach of these Terms, then without prejudice to any other right or remedy THEATRE SAFE AUSTRALIA may without liability to either party, by notice cancel or suspend provision of its Services, repossess Equipment and, if any Services or Equipment have been provided but are unpaid, the full price shall become immediately due and payable notwithstanding any contrary agreement.

General

9.1 Any notice must be sent in writing and sent to the principal place of business of the party concerned.

9.2 No waiver of any breach of these Terms shall be a waiver of any subsequent breach of the same or any other provision.

9.3 If any provision hereof is invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions shall be unaffected.

9.4 The interpretation and application of these Terms and Conditions of business shall be in accordance with Australian Law.

9.5 Additional "Works by others" that are NOT included in the Offer may need to be completed prior to making a system fully operational. Where non-completion of works by others is delaying any milestone or stage of works to be completed by THEATRE SAFE AUSTRALIA, THEATRE SAFE AUSTRALIA will not be made liable for any associated costs arising from this delay. Request for immediate payment may be made by THEATRE SAFE AUSTRALIA for all completed works prior to the delay by others.

Drawings & Approvals

10.1 After the acceptance of an order from a Purchaser, THEATRE SAFE AUSTRALIA may provide drawings and/or documentation which shall be deemed reasonable and necessary by THEATRE SAFE AUSTRALIA.

10.2 Where THEATRE SAFE AUSTRALIA provides drawings and/or other documentation for approval by the Purchaser, those items must be reviewed for (a) approval, (b) rejection or (c) amendments required, and then returned to THEATRE SAFE AUSTRALIA within 7 days from the date of receipt of those documents. Any delay shall constitute an extension of the contract period.

Alterations and Variations

11.1 The Purchaser shall be responsible for and bear the cost of any alteration to the work arising from discrepancy, error or omission in any drawings, specification of other information supplied by, or approved by the Purchaser.

Warranty & Defects Period

11.1.3 THEATRE SAFE AUSTRALIA warrants its products and (installations/services) will, with normal use and service, be free from defects in materials and workmanship for 1 year from the date of delivery or installation.

11.1.4. Where a practical completion process is part of agreed works, any item used by the Purchaser prior to the practical completion date of the whole project shall be deemed to have reached practical completion and shall have commenced its warranty period.

11.1.5. Where structures or products are manufactured by THEATRE SAFE AUSTRALIA and are certified to a maximum pay load, warranties shall be null and void should the maximum permissible pay loads be exceeded.

11.1.6 Products supplied by THEATRE SAFE AUSTRALIA must be used and maintained as detailed within any specification sheet or user manual supplied by the manufacturer to ensure that Warranty assurance remains valid.

11.1.7 The Customer shall inspect the Goods on delivery and shall notify THEATRE SAFE AUSTRALIA within forty-eight (48) hours of delivery of any alleged defect, shortage in quantity, damage, faults or discrepancy with the order. If the Customer should fail to comply with these terms, the Goods shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.

11.1.8 Any Goods returned for any reason shall be shipped at the cost of the Customer.

11.1.9 Any credits for return that may be given are at the sole discretion of Theatre Safe Australia and shall incur an admin and handing fee of 10% the value of the goods returned.

Fitness for Purpose

11.2.1 The goods offered herein are warranted to be new and in accordance with the manufacturer's specifications. No warranty, express or implied, is given as to the suitability of these goods for any specific purpose.