

## TERMS AND CONDITIONS

Alive Technologies Group Pty Limited ABN 60 151 374 444

### Application

1. These terms and conditions (these terms) govern the supply of any audio visual, event staging, and/or event production or other services including the hiring of technical equipment and/or decorative items (Services) by Alive Technologies Group Pty Ltd (we/us/our) to you the customer (you/your). By requesting us to provide Services to you, you agree to these terms.

### Proposal for Service

2. We will provide you with a written estimate of our charges for the Services/Equipment requested by you in the form of a quote. Anything we provide which is not a formal quote is only a guide to our charges.  
3. You must notify us in writing if you accept the quote by signing the acceptance on the last page and returning to us. If we do not receive a confirmation from you within (5) working days after the date of the quote, then the charges set out in the quote are subject to change.  
4. Services are subject to availability. If when receiving a notice from you, we are not able to provide the Services requested, we are under no obligation to provide those services and may elect to offer to provide you with a revised quote for some only of the services requested if you require it.  
5. As soon as we receive a notice from you and we confirm that we can provide the services requested, the quote together with these terms and conditions will comprise our agreement with you (the Agreement).

### Charges

6. The Charges may change if you change the date or times for your event, function or hire (your event), if you require additional or different Services to those set out in the Estimate, if your event is for longer than the time estimated in the Estimate, if we both agree to a change for any reason, or as set out in these terms.  
7. If you require and we provide additional Services to you which are not detailed in the Estimate including late date changes by you to your event or the duration of the Services (Additional Services), then we may impose additional charges (Additional Charges) at our applicable standard rates and may also charge at our discretion, a late change fee for changes made less than 48 hours before the commencement of your event in these terms further references to 'services' includes Additional Services and further reference to 'Charges' includes Additional Charges.  
8. Where the Agreement specifies a duration for the provision of the Services then that duration will be the minimum duration for the provision of the Services to you.  
9. We reserve the right to levy an outside ordinary hours labour surcharge for provision of services by our personnel commencing before 6am or concluding after midnight, levied at our rate applicable for the state or territory in which the service is performed.

10. If we are providing Services at a venue, and your venue booking does not include 24-hour reservations for each multi-day period of the Services and additional labour is required to pack down and reset the venue room then we reserve the right to impose Additional Charges for the Additional Services required.  
11. If a Service Charge is specified in the Estimate it is to recoup some of the cost to us of sundry items and expenses incurred by us to provide the Services which are not readily able to be separately itemised.

### Payment

12. If you have an account with us with available credit then you must pay the total amount of our invoice for the Services within 30 days of the date of our invoice.  
13. If you do not have an account with us with available credit, you must pay us in cleared funds an amount equal to all proposed Charges by the date or dates specified in the Estimate to payment. If no date is specified you must pay us at least 3 working days prior to the proposed commencement of the Services (Commencement Date) which Commencement Date is the earliest of the dispatch or set up date specified in the Estimate, or it none is specified, the day of your event. If:

a. you do not pay the Charges in accordance with this clause we may in our discretion elect not to provide the Services to you. If we elect not to provide the Services to you, we will invoice you for the Services and that invoice must be paid immediately;  
b. we provide Additional Services then we will invoice you for the Additional Charges and that invoice must be paid immediately and within 7 days;  
c. you have chosen to pay us by credit card, you irrevocably authorise us to debit your credit card with the amount of the Charges and the Additional Charges plus the fee applicable for payment by credit card specified in these terms.

14. If you wish to establish a credit amount you must submit a credit application to us at least 10 working days prior to the Commencement Date. We will advise you in writing if your application is accepted. Acceptance of your application is at our absolute discretion.

15. Irrespective of whether you hold an account with us, we may in our absolute discretion require you to pay some of the Charges prior to provision of the Services for costs we may incur including our manufactured items, hire from third party suppliers, production, venue and entertainment charges (Preproduction Costs). If you do not pay the Preproduction Costs in accordance with this clause we may, in our absolute discretion, elect not to provide the Services to you.

16. Overdue amounts will accrue interest at the rate of 2% above the unsecured Business Overdraft Indicator Lending Rate, (or any replacement of it) published by National Australia Bank from time to time calculated daily from the due date until paid in full and, together with any legal expenses we incur (on a full indemnity basis) in relation to recovering outstanding amounts, will be payable by you on demand.

17. If you make any payment by credit card, we reserve the right to levy a percentage surcharge of the payment amount to recoup the cost of the merchant service fee we incur, which percentage surcharge will be 2.1% for Visa or MasterCard, 3.2% for American Express and 3.5% for other credit cards.

### Cancellation

18. If you cancel or change the scope or date for any of the Services after the Agreement is made, you must advise us in writing. If you cancel the Services, we reserve the right to charge you a cancellation charge calculated as a percentage of the Charges excluding Preproduction Costs according to the date you advise us of the cancellation, as a genuine pre-estimate of our loss, as follows:

a. 25% if less than 7 days but not less than 4 days' notice is given;  
b. 50% if less than 4 days but not less than 48 hours' notice is given; or  
c. 100% if less than 48 hours' notice is given, or if no notice is given,  
(Cancellation Charge) and in addition you must reimburse us for any Preproduction Costs we have incurred, including any non-refundable deposits, in preparation to provide the Services and not already paid by you. We will deduct from any sum payable by you under this clause, any Preproduction Costs comprising deposits which have been paid by you but are refunded to us.

### Insurance

19. Insurances we may hold apply only in relation to our provision of Services and do not provide any insurance cover for you or for your event. You are responsible to effect and maintain your own insurances for your event including but not limited to public liability and property damage insurance.

### Service Delivery

20. You are responsible for compliance with applicable Occupational Health & Safety standards and other statutory requirements for your event. We reserve the right to withdraw our Services if yours or the plans of a third party are altered, or the operating environment alters to such an extent as to breach our safe work practices.

21. Delivery of equipment, technical, decorative and other items provided by us as part of the Services (collectively Equipment) will take place:

a. at our warehouse, if you take delivery of the Equipment; or  
b. at the location specified in the Estimate, if we agree to transport the Equipment.  
22. If you are responsible for transporting Equipment, you must return the Equipment to our warehouse by the time specified in the Estimate otherwise Additional Charges will apply for late return at our prevailing rates for late return

23. If we are responsible for transporting Equipment, you must:  
a. ensure that the Equipment is available and able to be collected by us during the pack down time or strike time specified in the Estimate (Pack Down Time); and  
b. if, for any reason other than a matter under our control, we are unable to collect the Equipment during the Pack Down Time then an amount equal to 120% of the daily rate for the provision of the Equipment component of the Services for each day (or part thereof) until the Equipment is accessible and available to be collected by us as a genuine pre-estimate of the cost to us of the unavailability of our Equipment for re-use, plus any charges for our stairs additional time. Will be charged to you as Additional Charges  
24. You must permit or obtain permission for us to enter premises where the Equipment is located or in order for us to provide the Services and you must provide all reasonable assistance to enable us to provide the Services.

25. Unless expressly specified in the Estimate, our Services do not include recording or making any other permanent record of any part of your event for you to retain.  
26. To the extent permitted by law, you acknowledge that in requesting the Services from us, you are not relying upon any representation, promise or undertaking made by us or on our behalf except as expressly made in writing in the Agreement. However, this clause will not apply so as to exclude any statutory guarantee which applies to our supply of Services to you which is not permitted to be excluded at law.

### Intellectual Property and Materials

27. The Services do not include us obtaining any licence or consent from any third party for use of any intellectual property including any copyright, design, trade mark, rights in or to play music or film, or in any graphic, printed or other material or media of any kind (IP) or use of any confidential information in any way used at or forming part of your event and you must obtain and you warrant that you hold all necessary licences (including music licences) and approvals.

28. All IP created or produced by us or our suppliers or on our behalf for or in connection with your event including in all systems, music, creative concepts, graphics, scripts and styling will remain our exclusive property and you will not acquire any rights to it.

29. Without limiting our rights, you agree we can use photographs and images we take of your event and other material we use or provide (all Materials) for our promotional purposes including as examples of our work and in any brochure, newsletter, manual, report, website or other media, and such use may include your corporate name or other IP as it appears in the Materials, without liability or compensation to you and we may also alter the Materials as we determine including to remove your name or other IP, without your prior approval.

### Equipment Generally

30. In relation to any Equipment provided as part of the Services you acknowledge that equipment always remains our property and that: a. you are fully responsible for any then, loss or damage to any of the equipment which you or your employees, agents, contractors, invitees or users cause; and

b. you must reimburse us within 7 days of written demand from us (and if you are paying by credit mid you authorise us to debit to your credit card), at our election;

i) the cost incurred by us of repairing damaged equipment; or  
ii) the full new for old replacement cost, including all taxes or duties and all additional expenses incurred by us on replacement of equipment that is lost, stolen or determined by us to be irreparably damaged; for any damage, loss or replacement you are responsible for under these terms.

### Additional obligations for equipment not under our care and control

31. If any Equipment will not be under our care and control at any time after the Commencement Date because you have hired Equipment from us to operate yourself or for any other reason, then in addition to your general obligations:

a. you are fully responsible for any theft, loss or damage to any of the Equipment which occurs from the time it ceases to be under our care and control and until it is returned to our care and control, except that you are not responsible for marl, loss or damage which we or our personnel or contractors cause;  
b. you must provide adequate security for the Equipment and must not take any Equipment to any location other than as agreed by us in writing;

c. you must report any shortage, theft, loss, damage or malfunction in any Equipment to us immediately you become aware of it and no later than when the Equipment is returned to us;  
d. you must not repair or attempt to repair or allow anyone else to repair any Equipment without our prior written consent;

e. you must not sublet, or part with possession of any Equipment unless we have agreed in writing to your cross-hire of it to a third party, and must not cause or permit any type of encumbrance, lien or 'M19896 to be created over the Equipment, or sell, or affix the Equipment or any part to any building or other structure;  
f. you must maintain and return the Equipment in the same condition it was in when you took delivery subseq only to any fair wear and tear as determined by us acting reasonably;

g. you must only use the Equipment for the purposes for which the Equipment was supplied and only permit use by properly skilled and if applicable, licensed persons; and  
h. you must insure the Equipment for its full new for old replacement value against loss or damage with a reputable insurer and provide to us on our request, written evidence of the currency of the insurance.

### Risk and Responsibility

32. You and any third parties equipment or other property used or located at your event is your responsibility and at your risk. You must retrieve any such property immediately on conclusion of your event and if you do not do so within fourteen (14) days of our written request, you irrevocably authorise us to destroy or dispose of all such property which we may hold in such manner as we determine in our absolute discretion.

33. Notwithstanding any other provision of these terms, and to the extent permitted at law, we will not have liability for or be in default under the Agreement solely by reason of any failure, default or delay caused by you or anyone providing anything for you, or by reason of any matter outside our reasonable control including any strike, lock out, industrial dispute, act of terrorism, sabotage or any natural or other cause or act of God.  
34. To the extent permitted at law, all conditions, warranties and guarantees implied into the Agreement or imposed by statute are excluded, and all and any liability by us for any indirect or consequential loss or damage including any loss of income, revenue, opportunity, data, profit and/or saving) and/or for my exemplary, special and/or punitive damages, arising in any way in connection with the Agreement, its subject matter and/or our provision of or failure to provide the Services, whether under contract, in equity, negligence or other tort, statute or otherwise, is excluded.  
35. To the extent we have any liability under any implied or statutory condition, warranty or guarantee which cannot be excluded, to the extent permitted by law we limit such liability at our option to:

a. in the case of goods supplied by us to: 6) replacement of the goods or the supply of equivalent goods; (II) repair of the goods; (m) payment of the cost of replacing the goods or of acquiring equivalent goods; or (iv) payment of the cost of having the goods repaired;  
b. in the case of services supplied by us to: (i) supplying other services again; or (II) payment of the cost of having the services supplied again.

36. If you materially breach any term of the Agreement or you have a liquidator, receiver, receiver and manager, trustee in bankruptcy or other form of insolvent administrator appointed to you or any of your property, then without prejudice to any other rights we may have, we may at our option immediately suspend provision of the Services and retrieve the Equipment, and/or terminate the Agreement, and all unpaid Charges will be immediately due and payable.

37. You agree to indemnify us from all loss, cost, expense, damage and/or liability (Harm) we suffer or incur arising in connection with your event or our provision of any of the Services to the extent it is caused by the negligent, willful or wrongful act or omission by you, or any of your servants, agents, contractors or invitees or by your breach of the Agreement.

### General

38. You warrant that you and the persons) signing the Agreement for you are entitled and authorised to enter into and perform your obligations under the Agreement.

39. You must not assign any of your rights or obligations under the Agreement.

40. If we are able to pay Goods and Services Tax (GST) in respect of any supply we make to you, you must pay us an additional amount equal to the amount of the GST payable on that supply and we will issue you with a tax invoice in accordance with the A New Tax System (Goods and Services Tax) Act 1999 (Ch).

41. Our Charges are subject to change before the Agreement is made, or as specified in the Agreement and these terms and are quoted in Australian dollars unless stated otherwise.

42. These terms are subject to the provisions of any applicable statute which cannot lawfully be excluded including the Competition and Consumer Act 2010 and if any of these terms is, or becomes wholly or partially void, invalid or contrary to applicable law, then that term will to the extent that it is invalid, void or contrary to law, be severed without affecting the enforceability and validity of any other part.

43. In the interpretation of these terms, no rules of construction will apply to our disadvantage on the basis that we put forward these terms or any part, the words 'including' and 'includes' will not be construed as words of limitation, headings do not affect interpretation, reference to a clause is to a clause of these terms, and a word importing the singular includes the plural and vice versa.

44. The Agreement is governed by, and must be construed in accordance with the laws of the State or Territory on Australia where the Services are provided, and if more than one applies or if the Services are performed outside of Australia, in accordance with the laws of New South Wales and the parties submit to the exclusive jurisdiction of the courts of that respective State or Territory or of New South Wales as the case may be.

45. We may vary these terms from time to time however we will not vary them after an Agreement has been made in relation to that Agreement except as expressly permitted under these terms.

### Credit Applications and Privacy

46. If you make an application to us for credit then if the application is for commercial credit, you agree that we may obtain a consumer credit report about you from a credit reporting agency for the purpose of assessing your application for commercial credit and/or for the purpose of collecting overdue payments relating to commercial aedi owed by you to us; and if the application is for consumer credit then you agree that we may obtain information about you from a credit reporting agency for the purpose of assessing your application for consumer credit.

47. The information provided by you to us may contain personal information. The purpose for which the information is collected is to enable us to consider your information, consider any request by you for credit, provide the Services and protect our interests in the Equipment and you consent to us collecting the information for these purposes. You are entitled to gain access to such information.

48. You agree that, in order to assess your application, manage your account and provide the Services, we may give personal information about you to third parties including to our contractors and agents and to a credit reporting agent including details of your identity, your application and the status of your account. You agree that we may exchange with other credit providers any information about you and your credit arrangements, including information about your credit worthiness, credit standing, credit history or credit capacity which credit providers are allowed to exchange under the Privacy Act. You agree that we may use information obtained to assess an application by you for credit, notify other credit providers of a default by you under this contract or to assess your credit worthiness.