

**BULLIVANTS EQUIPMENT HIRE STANDARD TERMS AND CONDITIONS
JANUARY 2012**

1. Definitions and Interpretation

1.1 "Agreement" means the agreement for the rental of the Equipment (including, if applicable, provision of the Services) between You and Us under the terms of the Rental Agreement and these standard terms and conditions.

"Business Day" means a day on which banks are open for general banking business in the place specified in the Rental Agreement as the place at which the Equipment is located.

"Commencement Date" means the Commencement Date specified in the Rental Agreement.

"Equipment" means the equipment set out in the Rental Agreement, and includes any part of that equipment.

"Insolvent" means unable to pay debts when they fall due, in receivership and/or management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement, assignment or composition with creditors or protected from any creditors under any legislation.

"Payment Date" means, the first day of each calendar month occurring from the Commencement Date until the end of the Term.

"PPSA" means Personal Property Securities Act 2009 (Cth).

"Rental Agreement" means the agreement signed between You and Us for the rental of the Equipment (including, if applicable, provision of the Services).

"Services" means the services, if any, which are to be provided by Us together with the hire of the Equipment, as detailed in the Hire Agreement.

"Term" means the rental term referred to in clause 3.1.

"We/Us/Our" means Bullivants Pty Ltd (ABN 47 087 887 072).

"You/Your" means the person hiring the Equipment (including, if applicable, having the benefit of the Services) from Us.

2. Renting of Equipment and Provision of Services

2.1 You agree to rent the Equipment from us during the Term and on the terms and conditions set out in the Agreement.

2.2 The Services (if any) we provide will match the description of the Services in the Agreement.

2.3 You acknowledge that We may engage any personnel to assist it to operate Our business, including the provision of the Services.

2.4 We warrant that We and any personnel We engage to provide any Services:

(a) will perform and provide the Services at all times with due care and skill;

(b) are competent and have all the necessary skills, training, and qualifications to carry out the Services in accordance with this agreement; and

(c) will use their best efforts not to interfere with any of Your activities or the activities of any other person on Your premises at which the Services are to be performed.

3. Rental Term

3.1 The Term commences on the Commencement Date and, subject to clauses 10, 15 and 17, and ends on the date that we receive all of the Equipment from you.

3.2 You may return the Equipment at any time, subject to paying the minimum charge specified in the Rental Agreement if the Term ends before the minimum hire period specified in the Rental Agreement (if applicable).

4. Charges

4.1 You will throughout the Term pay us:

(a) the rental instalments; and

(b) if applicable, the fees for the Services, specified in the Agreement.

4.2 Unless otherwise specified in the Rental Agreement, the rental instalments are payable in advance on each Payment Date.

4.3 The rental instalments must be paid in such manner as we may from time to time direct you in writing.

5. Delivery of Equipment

5.1 You will take delivery of the Equipment from our premises unless the Equipment is delivered to a location nominated by you at your expense.

5.2 You acknowledge that:

(a) you do not have any title to the Equipment; and

(b) no agreement or representation has been made which will entitle you to acquire the Equipment at a later date, unless otherwise agreed in writing by the parties.

6. Use of Equipment

6.1 You will:

(a) keep the Equipment in good order and repair (reasonable wear and tear excepted) and properly operated in accordance with the reasonable instructions applicable to the Equipment;

(b) not attempt to sell, dispose of or encumber the Equipment in any way and make clear to others that we own the Equipment;

(c) not alter any identifying markings on the Equipment;

(d) not remove the Equipment from the location specified in the Rental Agreement without our prior written consent; and

(d) allow us (and the owner of the Equipment) to enter the place where the Equipment is located at any reasonable time during normal business hours upon our first giving you two business days notice, to:

- (i) inspect the condition of the Equipment; or
- (ii) check whether the terms of this Agreement are being complied with.

7. Insurance

7.1 Except where You take up the insurance option in respect of Equipment (where the insurance option is available), You must at all times throughout the Term of this Agreement:

(a) insure and keep insured:

- (i) the Equipment against loss, fire, accident, theft and damage for an amount equal to the full insurable value of the Equipment; and
- (ii) against public liability for bodily injury or damage to property arising in connection with the Equipment;

(b) ensure that each policy of insurance under paragraph (a) is with a reputable insurer, noting our interest;

(c) provide certificates of currency evidencing insurance and pay promptly all premiums and stamp duty in respect of such policies and, to the extent we are entitled to receive such amounts under this Agreement, permit us to receive all insurance monies for claims for physical damage to the Equipment;

(d) not do or permit or suffer to be done anything which might prejudice any such insurance;

(e) not vary the insurances in any material respect without our consent; and

(f) not enforce, conduct, settle or compromise any claim without our consent.

8. Casualty Occurrence

8.1 If any of the Equipment is lost, stolen or damaged beyond economic repair you must notify us promptly and, in any event, within 48 hours of the occurrence of the relevant event.

9. Essential Terms

9.1 The following terms are fundamental and essential terms:

(a) that you pay all rental instalments on time;

(b) that you keep the Equipment insured;

(c) that you do not cease or threaten to cease carrying on business;

(d) that you do not become Insolvent; and

(e) that you comply with clause 6.1.

10. Termination

10.1 We may give you notice terminating the rental of the Equipment and this Agreement if you breach:

(a) any essential term specified in clauses 9.1(a), (b) or (e) of this Agreement and fail to remedy the that breach (if the breach is capable of remedy) within fourteen (14) days after service of a written notice by us requiring you to do so; or

(b) any essential term specified in clauses 9.1(c) or (d).

10.2 If we terminate the renting of any Equipment under clause 10.1:

(a) we may immediately take retake possession of the Equipment, at your expense (subject to such expenses being limited to reasonable expenses); and

(b) you must pay to us all moneys then payable under this Agreement to the date of termination.

10.3 Any termination of this Agreement or any payment by you does not affect any other rights we have under this Agreement.

11. Return of Equipment

11.1 You must return the Equipment to the Return Delivery Address specified in the Rental Agreement. You must pay our reasonable costs of recovering Equipment that you do not return and you agree that we are entitled to enter the place where the Equipment is located for this purpose.

11.2 The Equipment must be in good working order and condition (reasonable wear and tear excepted) at the time we re-take possession of it.

11.3 You release us from any liability or damage incurred in retaking or attempting to retake possession of the Equipment from any premises where we believe the Equipment may be located, except to the extent that the liability or damage results from any negligence, wilful misconduct or breach of contract on our part or that of our directors, officers, employees, agents or contractors (other than you).

12. Expenses and GST

12.1 You must pay or reimburse us for:

(a) any expenses which we may reasonably incur in retaking or attempting to retake possession of the Equipment; and

(b) any costs or expenses (including legal costs) reasonably incurred by you in connection with the protection of the Equipment or the enforcement of our rights under this Agreement.

12.2 Without limiting clause 12.1, if a GST is imposed on any supply made by us to you under this Agreement, you must pay, in addition to rentals and any other amount payable by you under the Agreement, an additional amount for the supply equal to the GST payable by us on the supply (unless we notify you in writing that an amount payable for the supply is GST inclusive).

12.3 Your obligation under clause 12.2 only applies if we have provided you with a Tax Invoice for the supply that sets out the relevant amount in respect of which GST is payable and the amount of that GST.

12.4 If a price or amount payable under this Agreement is calculated by reference to the cost of acquisition of goods or services, the price or amount must be calculated using the GST exclusive cost of those goods or services and must not include any GST component of the cost for which the party paying the cost has claimed or is entitled to claim an Input Tax Credit.

12.5 If an Adjustment Event occurs, the parties must do all things necessary to make sure that the Adjustment Event may be appropriately recognised, including the issue of an Adjustment Note.

12.6 Words used in this clause 12 which have a defined meaning in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning unless the context indicates otherwise.

13. Maintenance Charges

13.1 You must contact us should any repairs or maintenance of the Equipment become necessary during the Term within 48 hours of becoming aware of the need for repairs or maintenance. You are responsible for all repair work and the costs of that work (parts and labour) where the repair work is required as a result of damage caused by your negligence, misuse or mishandling of the Equipment. We will pay for other maintenance and repair charges applicable during the Term.

14. Indemnities

14.1 You indemnify us against any liability or loss arising from and any costs, charges and expenses incurred in connection with:

(a) any:

(i) loss of or damage to the Equipment (which includes payment of any deductible on an insurance policy maintained in respect of the Equipment); or

(ii) death, injury or damage to any person or property arising directly or indirectly from the Equipment or its use by you or your directors, officers, employees, agents, contractors, licensees or customers,

to the extent that the liability or loss results from your negligence, wilful misconduct or breach of contract or that

of your directors, officers, employees, agents, contractors or customers;

(b) any claim for breach or infringement of a third party's intellectual property rights arising in connection with your use of the Equipment;

(c) the possession, use or operation of the Equipment by you (other than reasonable wear and tear to the Equipment);

(d) you not doing what you should have done under this Agreement; and

(e) any GST or other tax payable in respect of the Equipment or this Agreement.

Your obligation to indemnify us under this clause 14.1 will be reduced to the extent that the liability or loss results from any negligence, wilful misconduct or breach of contract by us or our directors, officers, employees, agents or contractors.

14.2 Each indemnity in clause 14.1 is a separate and independent obligation and continues after termination of this Agreement. It is not necessary for us to incur expense or make a payment before we enforce a right of indemnity.

15. Option to purchase

15.1 You may elect to purchase the Equipment from us, in which case, you will need to request a payout figure ("Purchase Price") from us. If you pay the Purchase Price, you will purchase the equipment in accordance with our then applicable general conditions of purchase (as published on our website at the time) and we will be relieved of all of our obligations under this Agreement other than those that are expressed to survive the Term. GST will apply to the Purchase Price.

16. Personal Property Securities Act

16.1 Each party consents to the other perfecting any security interest under this agreement which arises by operation of the PPSA in any property by registration under the PPSA and agrees to do anything reasonably requested by the other party to enable it to do so.

16.2 The parties contract out of each provision of the PPSA which, under section 115(1) of that Act, they are permitted to contract out of.

16.3 Each party waives its right to receive each notice which, under section 157(3) of the PPSA, it is permitted to waive.

16.4 Each party waives its rights to receive anything from any other party under section 275 of the PPSA and agrees not to make any request of any other party under that section.

16.5 The Purchaser must not:

- (a) create any security interest or lien over any of the Supplier's Personal Property whatsoever (other than security interests granted in favour of the Supplier);
- (b) sell, lease or dispose of its interest in the Supplier's Personal Property;
- (c) give possession of the Supplier's Personal Property to another person except where the Supplier expressly authorises it to do so;

- (d) permit any of the Supplier's Personal Property to become an accession to or commingled with any asset that is not part of the Goods; or
- (e) change its name without first giving the Supplier 15 Business Days notice of the new name or relocate its principal place of business outside Australia or change its place of registration or incorporation.

17. Variation

17.1 We may in our absolute discretion agree to a request by you to vary any terms of this Agreement or any rental transaction under this Agreement, including a variation of the Term, the Equipment rented or Services provided.

17.2 No variation will be effective unless it is in writing, is signed by or on behalf of both of us.

18. Severance

18.1 If any provision of this Agreement is or becomes illegal, invalid or unenforceable, such provision shall be severed and the remaining provisions shall continue unaffected.

19. Governing Law

19.1 This Agreement is governed by the laws of New South Wales. We both agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.

20. Waiver and election

20.1 No waiver by us of any default, breach or repudiation by you will affect our rights in respect of any further or continuing default, breach or repudiation.

20.2 In no event shall any delay, neglect or forbearance on the part of any party in enforcing (in whole or in part) any provision of this Agreement constitute an election not to enforce a contractual right (whether a right to terminate for breach or any other contractual right).

21. Assignment

21.1 We may (but subject always to your rights as renter) sell or assign either absolutely or by way of security our rights under this Agreement or to the Equipment.

21.2 You may not assign or sub-licence your rights to rent the Equipment in whole or in part under this Agreement to a third party without our prior written consent (such consent not to be unreasonably withheld or delayed).

22. Business Day

22.1 If the day on which anything to be done is not a Business Day, then:

(a) if it involves a payment other than a payment which is due on demand, it shall be done on the preceding Business Day; and

(b) in all other cases, it shall be done no later than the next Business Day.