

STANDARD HIRE AGREEMENT



**Government
of South Australia**

AGREEMENT

BETWEEN:

THE GOVERNMENT PARTY NAMED IN ITEM 1 OF ATTACHMENT 1 (“the Government Party”)

AND:

THE PARTY NAMED IN ITEM 2 OF ATTACHMENT 1 (“the Supplier”)

IT IS AGREED that this Execution Page, the Agreement Details (Attachment 1), the Terms and Conditions (Attachment 2), the Glossary of Defined Terms (Attachment 3), the Special Conditions (Attachment 4), and the Equipment (Attachment 5), will together comprise the Agreement between the Parties for the supply of the Equipment specified in Attachment 1.

EXECUTED AS AN AGREEMENT

SIGNED by a duly authorised officer for and on)
behalf of **THE GOVERNMENT PARTY NAMED**)
IN ITEM 1 OF ATTACHMENT 1 in the presence)
of:)

.....
Witness signature

.....
Authorised officer signature

.....
Witness name
Date

.....
Authorised officer name
Date

*If the Supplier is a **company**, use any of the following three execution blocks on the first page of the agreement:*

EXECUTED by **THE PARTY NAMED IN ITEM 2**)
OF ATTACHMENT 1 in accordance with section)
127 of the *Corporations Act 2001* (Cth) by two)
directors or by one director and the company)
secretary:

.....
Director signature

.....
Director/Company Secretary signature

.....
Director name

.....
Director/Company Secretary name

Date

Date

THE COMMON SEAL of **THE PARTY NAMED**)
IN ITEM 2 OF ATTACHMENT 1 was hereunto)
affixed in the presence of:)

.....
Witness signature

.....
Witness name

Date

EXECUTED by **THE PARTY NAMED IN ITEM 2**)
OF ATTACHMENT 1 by a duly authorised officer)
in accordance with section 126 of the)
Corporations Act 2001 (Cth):)

.....
Authorised officer signature

.....
Authorised officer name

Date

*If the Supplier is a **sole director company** use the following execution block on the first page of the agreement:*

EXECUTED by **THE PARTY NAMED IN ITEM 2**)
OF ATTACHMENT 1 in accordance with section)
127 of the *Corporations Act 2001* (Cth):)

.....
Director and Sole Company Secretary signature

.....
Director and Sole Company Secretary name
Date

*If the Supplier is a **natural person** or **sole trader** use the following execution block on the first page of the agreement:*

EXECUTED by **THE PARTY NAMED IN ITEM 2**)
OF ATTACHMENT 1 in the presence of:)

.....
Witness signature

.....
Party signature

.....
Witness name
Date

.....
Party name
Date

*If the Supplier is a **partnership** use the following execution block on the first page of the agreement:*

EXECUTED by a partner in the partnership)
trading as **THE PARTY NAMED IN ITEM 2 OF**)
ATTACHMENT 1 in the presence of:)
)

.....
Witness signature

.....
Partner signature

.....
Witness name
Date

.....
Partner name
Date

*If the Supplier is an **incorporated association** use the following execution block on the first page of the agreement:*

SIGNED for and on behalf of **THE PARTY**)
NAMED IN ITEM 2 OF ATTACHMENT 1 by a)
duly authorised officer in the presence of:)

.....
Witness signature Authorised officer signature

.....
Witness name Authorised officer name
Date Date

*If the Supplier is a **trustee** use the following execution block on the first page of the agreement:*

EXECUTED by **THE PARTY NAMED IN ITEM 2**)
OF ATTACHMENT 1 as trustee of the trust)
named in Item 2 of Attachment 1 by a duly)
authorised officer in accordance with section 126)
of the *Corporations Act 2001* (Cth):)

.....
Authorised officer

.....
Authorised officer name
Date

Attachment 1 - Agreement Details

Item 1	Government Party	<p>South Australian Tourism Commission</p> <p>A body corporate pursuant to the <i>South Australian Tourism Commission Act 1993</i> (SA)</p> <p>ABN: 80 485 623 691</p> <p>Level 9 250 Victoria Square/Tarntanyangga Adelaide South Australia 5000</p> <p>GPO Box 1972 Adelaide SA 5001</p>
Item 2	Supplier	<p><insert name></p> <p><insert ACN></p> <p><insert address></p> <p>Where trustee:</p> <p><insert name of trust></p>
Item 3	Commencement Date	The date on which the Agreement is signed by the Parties, or if signed on separate days, the date of the last signature.
Item 4	Expiry Date	The last date of the Hire Period as set out in Attachment 5
Item 5	Supplier's ABN	<p><insert ABN></p> <p>Registered for GST:</p> <p><Yes/No></p>
Item 6	Contract Managers	<p>Government Party: <insert></p> <p>Supplier: <insert></p>
Item 7	Equipment	Refer to detailed description in Attachment 5
Item 8	Hire Use	<insert details of purpose of use by Government Party>
Item 9	Location for Use	<insert>
Item 10	Price and Payment (including address for invoices)	<p>Price: \$<insert> (GST inclusive)</p> <p>Manner of Payment: The Supplier is entitled to invoice the Government Party for payment in accordance with clause 15.</p> <p>The Government Party must pay on a Supplier's invoice within 30 days of receipt if the invoice is properly rendered, but not otherwise.</p> <p>Address for Invoices:</p> <p><insert name and/or position of Government Party Contract Manager></p> <p>GPO Box 1972 Adelaide SA 5001</p> <p>Refer to detailed pricing information in Attachment 5</p>
Item 11	Approved Subcontractors	<insert relevant details or insert "not applicable">

Item 12	Additional Personnel Checks	<e.g. DCSI Unsuitable Person Screening or insert "not applicable">
Item 13	Notice Period for Termination for Convenience	30 days

Attachment 2 - Standard Hire Terms & Conditions

AGREED TERMS

1. CONTRACT LENGTH

- 1.1 This Agreement commences on the Commencement Date and continues until the Expiry Date, unless terminated earlier.

2. CONTRACT MANAGERS

The persons named in Attachment 1 as the Contract Managers are the first point of contact between the Parties and are responsible for overseeing the effective administration of the Agreement including variations and extensions.

3. HIRE OF EQUIPMENT

- 3.1 The Supplier agrees to provide the Equipment to the Government Party:
- (a) for the Hire Use; and
 - (b) for the Hire Period.

4. DELIVERY

- 4.1 The Supplier must deliver the Equipment to the Delivery Location at the Delivery Time.
- 4.2 Unless otherwise agreed by the parties in writing, the Supplier is responsible for the safe packing and transportation of the Equipment to the Delivery Location.
- 4.3 The Supplier must bear all costs of preparation, safe packing and transportation in connection with the transit and delivery of the Equipment.
- 4.4 Without limiting clause 4.2, the Supplier must provide details of its proposed arrangements for the delivery and transportation of the Equipment to the Delivery Location to the Government Party within 2 days prior to the delivery of the Equipment, and must comply with any reasonable directions given by the Government Party in relation to the delivery and transportation of the Equipment to the Delivery Location.

5. INSPECTION AND ACCEPTANCE OF EQUIPMENT

- 5.1 The Government Party may inspect the Equipment to determine whether to accept or reject the Equipment.
- 5.2 The Government Party must accept the Equipment if it conforms with the requirements of this Agreement.
- 5.3 The Equipment is deemed to be accepted either:
- (a) on delivery, if the Government Party notifies the Supplier that it accepts the Equipment; or
 - (b) if no notice is issued by the Government Party, then 2 days after delivery of the Equipment to the Delivery Location.
- 5.4 If the Government Party rejects the Equipment due to non-conformity with the requirements of this Agreement, then the Government Party must notify the Supplier as soon as possible and require the Supplier at its sole cost, and at the Government Party's election to either:
- (a) resupply the Equipment and remove the non-conforming Equipment from the Delivery Location; or
 - (b) repair the Equipment.
- 5.5 Acceptance of the Equipment does not relieve the Supplier of any of its obligations under this Agreement.

6. OPERATION OF EQUIPMENT

- 6.1 The Government Part will, at all times, operate the Equipment in accordance with:
- (a) any guidelines, regulations or requirements issued by the Supplier;
 - (b) all requirements and obligations in relation to work health and safety (including the *Work Health Safety Act 2012 (SA)*) or other regulations which are applicable to the Equipment or its operation; and
 - (c) the specifications or requirements of the manufacturer of the Equipment.
- 6.2 Without limiting clause 6.1, the Government Party shall ensure the Equipment is, at all times during the Hire Period, operated in a professional, proper and safe manner and so as to avoid

injury or damage to the Equipment and any persons operating, using or handling the Equipment.

- 6.3 The Government Party will not use the Equipment other than for a purpose for which the Equipment was designed, manufactured or constructed.

7. USE

- 7.1 Subject to clause 6.3, the Government Party shall be entitled to use the Equipment during the hire period only for the Hire Use.
- 7.2 Unless otherwise agreed by the parties in writing, the Government shall ensure that the Equipment is used only at the Location for Use.
- 7.3 The Government Party shall ensure that the Equipment is not in any way damaged or destroyed as a result of its use for the Hire Use.
- 7.4 Prior to the delivery of the Equipment, the Government Party shall obtain and maintain in force any necessary licences, accreditations, permits, registrations, regulatory approvals or other documented authority (however described) required by law and necessary for the use of the Equipment and the performance of its obligations under this Agreement.

8. MAINTENANCE

- 8.1 The Government Party shall:
- (a) store and use the Equipment in a responsible, competent, proper and skilful manner and comply with all reasonable instructions given by the Supplier regarding the manner in which this should be done;
 - (b) take all reasonable steps to ensure the proper protection, safe custody and security of the Equipment; and
 - (c) not make any alteration, addition or modification to any of the Equipment except as authorised by the Supplier.
- 8.2 The Government Party acknowledges and agrees that it shall be responsible for all costs and expenses arising out of or in connection with the performance of all activities necessary to comply with its obligations under clause 8.1 and otherwise under this Agreement.

9. DAMAGE

- 9.1 The Government Party shall:
- (a) advise the Supplier in writing upon becoming aware of any loss of, or damage to any part of the Equipment; and
 - (b) comply with all reasonable directions given by the Supplier in response to a notice given by the Government Party under clause 9.1(a).

10. COLLECTION OF EQUIPMENT

- 10.1 On the last day of the Hire Period, the Supplier must arrange for, and bear all costs in connection with the preparation, packing, loading transportation and insurance for the return, and collection of the Equipment, to the Supplier from the Collection Location.
- 10.2 The Equipment shall be returned to the Supplier on the last day of the Hire Period in the same condition (including its form and functionality) as when it was provided to the Government Party.
- 10.3 Without limiting the other provisions of this clause 10, the Government Party shall provide details of its proposed requirements for the collection of the Equipment by the Supplier within 2 days prior to the collection of the Equipment, and the Supplier must comply with any reasonable directions given by the Government Party in relation to the collection and transportation of the Equipment.
- 10.4 Without limiting clause 10.2, the Government Party will, if required upon return of the Equipment, provide to the Supplier a written notice of the condition of the Equipment (including any faults identified in the Equipment by the Government Party).

11. PROPERTY IN EQUIPMENT

- 11.1 The Equipment shall be and remain the property of the Supplier notwithstanding any mode or degree of installing or affixing the Equipment at the Government Party's premises.
- 11.2 Nothing in this Agreement is taken to vest title to the Equipment in the Government Party.
- 11.3 The Government Party shall not remove the Equipment from the Location for Use or substantially alter its location without the written approval of the Supplier, which approval shall not be unreasonably withheld.

12. HIRE VARIATION

- 12.1 If the Government Party wishes to vary the scope of the hire of the Equipment ("**Variation**"), it must issue a written request to the Supplier and the Supplier must within 5 Business Days (or such other period as agreed) provide a written quote ("**Quote**") setting out:
- (a) any impacts on the Hire Use, Hire Period, delivery or collection of the Equipment;
 - (b) the varied price and payment arrangements; and
 - (c) any changes to the terms that apply to the hire of the Equipment.
- 12.2 The Parties must negotiate in good faith to agree on the price and other terms applicable to the Variation.
- 12.3 If the Parties agree in writing to the terms of the Variation then:
- (a) the Supplier must provide the Equipment for the Hire Use and for the Hire Period as varied by the Variation;
 - (b) the Government Party must pay the varied price;
 - (c) the terms and conditions of the Agreement are varied by the terms of the Variation.

13. SUPPLIER'S WARRANTIES

- 13.1 The Supplier represents and warrants that:
- (a) the Equipment:
 - (i) conforms with any description applied and any sample provided by the Supplier;
 - (ii) is free from defects in materials, manufacture and workmanship;
 - (iii) conforms to any applicable Australian Standards or other standards nominated in this Agreement;
 - (iv) conforms to any technical specifications provided by the Supplier;
 - (v) is of merchantable quality; and
 - (b) delivery and collection of the Equipment will:
 - (i) be provided with due care and skill;
 - (ii) be provided in a timely and efficient manner;
 - (iii) be provided in accordance with the best practices current in the Supplier's industry; and
 - (iv) be performed by the Supplier and/or the Supplier's Personnel.

14. SUPPLIER'S PERSONNEL

- 14.1 The Supplier, if required by the Government Party, must give its consent to and procure the consent of the Supplier's Personnel, to the conduct of a police check or any Additional Personnel Checks specified in Attachment 1.
- 14.2 If the Government Party gives the Supplier notice in writing requiring those persons to be withdrawn from providing the Equipment, and the Supplier must immediately comply with the notice and provide replacement Personnel acceptable to the Government Party.
- 14.3 The Government Party reserves the right to refuse entry to any of the Government Party's premises to any of the Supplier's Personnel.

15. PRICE AND PAYMENT

- 15.1 The Price:
- (a) is firm and includes packing, transportation and all delivery and collection costs and charges unless otherwise stated; and

(b) is inclusive of GST.

- 15.2 The Government Party is not obliged to pay for the hire of the Equipment unless the Supplier has provided a Tax Invoice in respect of that payment.
- 15.3 If the Supplier is not registered for GST, then GST must not be charged on supplies made under this Agreement.

16. GST

- 16.1 Subject to clause 16.2 the Supplier represents that:
- (a) the ABN shown in Attachment 1 is the Supplier's ABN; and
 - (b) it is registered under the *A New Tax System (Australian Business Number) Act 1999* (Cth).
- 16.2 If the Supplier is not registered for GST, then GST must not be charged on supplies made under this Agreement.

17. INTELLECTUAL PROPERTY RIGHTS

- 17.1 Nothing in this Agreement affects the ownership of Intellectual Property Rights created before the Commencement Date.
- 17.2 The Supplier grants to the Government Party and the Crown in right of the State of South Australia a perpetual, irrevocable, royalty free, fee free licence to use, copy, modify and adapt any Intellectual Property Rights in any guidelines, regulations, requirements or technical specifications required to be supplied under this Agreement.

18. INDEMNITY

- 18.1 Each party ("Indemnifying Party") indemnifies and must keep indemnified the other party ("Indemnified Party") and its employees, agents and any other person employed or engaged by the party to perform this Agreement ("Personnel"), from and against all costs, losses, damages, expenses (including legal expenses) or other liabilities ("Losses") suffered or incurred by the Indemnified Party or its Personnel arising out of or in respect of this Agreement as a consequence of:
- (a) any negligence, wrongful act or omission or breach of duty of or by the Indemnifying Party;
 - (b) any breach by the Indemnifying Party of any of the provisions of this Agreement; or
 - (c) any breach of a warranty given by the Indemnifying Party under this Agreement.
- 18.2 The liability of a party ("Party A") for any Losses incurred by another party ("Party B") will be reduced proportionately to the extent that:
- (a) any negligent act or omission of Party B (or of its Personnel); or
 - (b) any failure by Party B to comply with its obligations and responsibilities under this Agreement,
- contributed to those losses, regardless of whether legal proceedings are brought by Party A for negligence or breach of contract.
- 18.3 This clause 18 will survive termination of this Agreement.

19. INSURANCE

- 19.1 The Government Party warrants that it is entitled to the benefits of the South Australian Government Insurance and Risk Management arrangements administered by SAICORP, the insurance division of the South Australian Government Financing Authority in respect of the operations under this Agreement.
- 19.2 The Supplier must have and maintain for the Supplier's own benefit for the Hire Period, valid and enforceable insurance policies for:
- (a) public liability for an insured amount of not less than \$20,000,000;
 - (b) workers' compensation as required by law; and
 - (c) equipment rental and inland marine insurance for cover that a prudent operator in the Supplier's industry would consider normal and adequate when hiring and transporting equipment of the same or similar type as the Equipment for the Hire Use.

20. ACCESS

20.1 During the performance of this Agreement, the Government Party shall cooperate with the Supplier by providing access to the Location for Use as reasonably necessary to enable the Supplier to:

- (a) affix plates or marks to the Equipment;
- (b) examine or test any of the Equipment; or
- (c) observe the manner in which the Equipment is being used.

21. CONFIDENTIAL INFORMATION

21.1 Subject to this clause 21, neither Party may disclose any Confidential Information belonging to the other Party except as genuinely and necessarily required for the purpose of this Agreement.

21.2 A Party may disclose Confidential Information belonging to the other Party:

- (a) to an employee, agent or adviser of that Party, on a "need to know" and confidential basis;
- (b) as required by law or a court order;
- (c) in accordance with any Parliamentary or constitutional convention;
- (d) to the Australian Competition and Consumer Commission (ACCC) if the party reasonably suspects, or is notified by the ACCC that it reasonably suspects, that there is Cartel Conduct or unlawful collusion in connection with the supply of Goods or Services under this Agreement; or
- (e) for the purposes of prosecuting or defending proceedings.

21.3 The Parties may mutually agree to disclose Confidential Information.

22. SET-OFF

Any claim the Government Party may have against the Supplier may be set off against monies owed to the Supplier under this Agreement.

23. DISPUTE RESOLUTION

23.1 Subject to clause 23.4 a Party may not commence legal proceedings without first referring the dispute to the other Party under this clause.

23.2 Either Party may give the other a notice in writing ("**dispute notice**") setting out the details of the dispute.

23.3 Within 5 Business Days or such other period as may be agreed by the Parties, representatives must meet and use reasonable endeavours to resolve the dispute.

23.4 A Party may seek immediate interlocutory relief or other interim remedy in case of genuine urgency.

24. TERMINATION

24.1 The Government Party may terminate this Agreement immediately upon giving notice in writing to the Supplier if:

- (a) the Supplier is in breach of this Agreement and has not rectified such breach within 10 Business Days of the Government Party giving notice in writing to the Supplier requiring the rectification of such breach; or
- (b) the Supplier suffers or, in the reasonable opinion of the Government Party, is in jeopardy of becoming subject to any form of insolvency administration or bankruptcy.

24.2 The Government Party may terminate this Agreement without cause by giving the Supplier the period of notice specified in Attachment 1 ("**Notice Period for Termination for Convenience**").

24.3 If the Government Party terminates this Agreement in accordance with clause 24.2:

- (a) the Supplier has no claim against the Government Party arising out of or in relation to such termination other than the right to be paid for Equipment accepted before the effective termination date; and
- (b) the Supplier must comply with all reasonable directions given by the Government Party.

24.4 The Supplier may terminate this Agreement immediately upon giving notice in writing to the Government Party if the

Government Party is in breach of this Agreement and has not rectified such breach within 14 days of the Supplier giving notice in writing to the Purchaser requiring the rectification of such breach.

25. EFFECT OF ENDING THIS CONTRACT

25.1 Any termination of this Agreement by either Party does not affect any accrued right of either Party.

25.2 Any provision of the Agreement which expressly or by implication from its nature is intended to survive the termination or expiration of the Agreement and any rights arising on termination or expiration shall survive, including Intellectual Property, reversion of Equipment to the Supplier, and any warranties or indemnities given under the Agreement.

26. REVERSION OF EQUIPMENT

26.1 Upon the expiration of the Hire Period, or termination of this Agreement, (whichever is the earliest):

- (a) the right to possession of the Equipment shall revert to the Supplier; and
- (b) the Supplier shall collect the Equipment in accordance with clause 10.

27. SUBCONTRACTING

27.1 With the exception of the Approved Subcontractors described in Attachment 1, the Supplier must not engage any subcontractor without the prior written permission of the Government Party.

27.2 The Supplier remains responsible for obligations performed by the Approved Subcontractors to the same extent as if such obligations were performed by the Supplier.

28. CONFLICT OF INTEREST

28.1 The Supplier must disclose in writing to the Government Party all actual and potential conflicts of interest that exist, arise or may arise (either for the Supplier or the Supplier's Personnel) in the course of performing its obligations under this Agreement as soon as practical after it becomes aware of that conflict.

29. COMPLIANCE WITH LAWS

The Supplier must comply with the laws in force in the State of South Australia in performing its obligations under this Agreement.

30. GOVERNING LAW AND JURISDICTION

30.1 This Agreement is governed by the laws in the State of South Australia.

30.2 The courts of the State of South Australia have exclusive jurisdiction in connection with this Agreement.

31. ENTIRE AGREEMENT

The Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understanding and negotiations in respect of the matters dealt with in this Agreement.

32. NO ASSIGNMENT

32.1 The Supplier must not assign, encumber or otherwise transfer any of its rights or obligations under this Agreement without the written approval of the Government Party which approval shall not be unreasonably withheld.

32.2 Subject to any contrary legislative intention, the Parties agree that if there is any Machinery of Government Change, this Agreement is deemed to refer to the new entity succeeding or replacing the Government Party and all of the Government Party's rights and obligations under this Agreement will continue and will become rights and obligations of that new entity.

33. MODIFICATION

No addition to or modification of any provision of this Agreement will be binding upon the Parties unless made by written instrument signed by the Parties.

34. SEVERANCE

- 34.1 Each word, phrase, sentence, paragraph and clause of this Agreement is severable.
- 34.2 Severance of any part of this Agreement will not affect any other part of this Agreement.

35. COUNTERPARTS

This Agreement may be executed in any number of counterparts each of which is taken to be an original. All of those counterparts taken together constitute one (1) instrument. An executed counterpart may be delivered by email.

36. WORK HEALTH & SAFETY

- 36.1 The Supplier must comply with the *Work Health and Safety Act 2012 (SA)* at all times, regardless of whether the Government Party issues direction in that regard or not.
- 36.2 If all or part of the work under this Agreement is to be provided on the premises of the Government Party and under the direction of the Government Party, the Supplier must comply with the Government Party's work health and safety policies, procedures and instructions. If the Supplier becomes aware of any potentially hazardous situation on the Government Party's premises, the Supplier must immediately bring it to the Government Party's attention.

37. ACTING ETHICALLY

The Supplier must conduct itself in a manner that does not invite, directly or indirectly, the Government Party's officers, employees or agents or any public sector employee (as defined in the *Public Sector Act 2009 (SA)*) to behave unethically, to prefer private interests over the Government

Party's interests or to otherwise contravene the Code of Ethics for the South Australian Public Sector.

38. INTERPRETATION

- 38.1 Defined terms are set out in the Glossary of Defined Terms in Attachment 3.
- 38.2 In resolving inconsistencies in this Agreement, the documents have the following order of priority:
 - (a) Special Conditions (Attachment 4);
 - (b) Standard Hire Terms and Conditions (Attachment 2); and
 - (c) the other Attachments.
- 38.3 In this Agreement (unless the context requires otherwise):
 - (a) a reference to any legislation includes:
 - (i) all legislation, regulations and other forms of statutory instrument issued under that legislation; and
 - (ii) any modification, consolidation, amendment, re-enactment or substitution of that legislation;
 - (b) a word in the singular includes the plural and a word in the plural includes the singular;
 - (c) a reference to two or more persons is a reference to those persons jointly and severally;
 - (d) a reference to dollars is to Australian dollars;
 - (e) a reference to a Party includes that party's administrators, successors and permitted assigns.

39. SPECIAL CONDITIONS

The special conditions (if any) form part of this Agreement and to the extent of any inconsistency, take precedence over the other terms of this Agreement.

Attachment 3 - Glossary of Defined Terms

In this Agreement:

- (a) **"Business Day"** means any day that is not a Saturday or Sunday or a public holiday in South Australia;
- (b) **"Cartel Conduct"** means conduct by two or more parties who are competitors (or would be but for the conduct) who enter into a contract, arrangement or understanding that involves price fixing, output restrictions, allocating customers, suppliers or territories, or bid-rigging, as defined in s44ZZRD of the *Competition and Consumer Act 2010* (Cth);
- (c) **"Claim"** means all claims, actions, cause of action, notice, demand, disputes, proceedings, litigation, losses, liabilities, costs or expenses, whether present, unascertained, immediate, future or contingent, whether arising in contract, tort (including breach of statutory duty and negligence), equity or otherwise, and whether involving a third party of a party to this Agreement;
- (d) **"Code of Ethics for the South Australian Public Sector"** is the code of ethics for the purposes of the *Public Sector Act 2009* (SA);
- (e) **"Collection Location"** means the location for collection of the Equipment by the Supplier specified in Attachment 5;
- (f) **"Collection Time"** the time and date specified in Attachment 5 that the Equipment will be made available by the Government Party for collection by the Supplier at the Collection Location;
- (g) **"Confidential Information"** means information which is identified either as confidential information (if disclosed by the Government Party) or proprietary information (if disclosed by the Supplier), but does not include this Agreement;
- (h) **"Delivery Location"** means the location for delivery of the Equipment by the Supplier specified in Attachment 5;
- (i) **"Delivery Time"** means the time for delivery of the Equipment by the Supplier specified in Attachment 5;
- (j) **"Equipment"** means the equipment specified in Attachment 1;
- (k) **"Event"** means <insert event name>.
- (l) **"GST"** means the tax imposed by the GST Law;
- (m) **"GST Law"** has the meaning attributed in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (n) **"Hire Period"** means the period commencing on the Commencement and ending on the Expiry Date unless terminated earlier and includes any extension and;
- (o) **"Hire Use"** means the use(s) specified in Attachment 1;
- (p) **"Liabilities"** means all direct liabilities, losses, damages, costs and expenses, including legal costs and expenses on a full indemnity basis, however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence), statute or otherwise including where arising under any Claim.
- (q) **"Location for Use"** means the location specified in Attachment 1;
- (r) **"Machinery of Government Change"** means a change to the structure, function or operations of the South Australian Government or the Government Party as a result of any government reorganisation, restructuring or other organisational or functional change;
- (s) **"Notice Period for Termination for Convenience"** means the time period specified in Attachment 1;
- (t) **"Party"** means a party to this Agreement;
- (u) **"Price"** means the price payable under this Agreement specified in Attachment 1 and includes any price varied under clause 12;
- (v) **"Special Conditions"** means the conditions in Attachment 4 and where relevant includes agency specific Special Conditions;
- (w) **"Supplier Personnel"** means any Approved Subcontractors, employees, agents and any other person employed or engaged by the Supplier to perform this Agreement;

Attachment 4 - Special Conditions

1. NON-EXCLUSIVITY

- 1.1 This Agreement is entered into on a non-exclusive basis.
- 1.2 The Government Party may purchase other goods and services similar to the Goods and Services from other providers.

2. CONTRACT DISCLOSURE

- 2.1 The Government Party may disclose this Agreement and/or information in relation to this Agreement in either printed or electronic form and either generally to the public or to a particular person as a result of a specific request.
- 2.2 Nothing in this clause derogates from:
 - (a) the Supplier's obligations under any provisions of this Agreement; or
 - (b) the provisions of the *Freedom of Information Act 1991* (SA).

3. SUPPLIER AS TRUSTEE

- 3.1 If the Supplier is acting as trustee of a trust, then in relation to this Agreement:
 - (a) the Supplier is liable both personally and in its capacity as a trustee of that trust;
 - (b) it must not assign, transfer, mortgage, charge, release, waive, encumber or compromise its right of indemnity out of the assets of that trust (but, for the avoidance of doubt, may apply its right of indemnity out of the assets of the trust to any of its liabilities including those arising in relation to this Agreement);
 - (c) it must not retire, resign nor by act or omission effect or facilitate a change to its status as the sole trustee of that trust; and
 - (d) it represents and warrants that:
 - (i) such trust has been duly established and currently exists;
 - (ii) it is the duly appointed, current and only trustee of that trust;
 - (iii) as trustee it has the power to enter into and perform its obligations under this Agreement;
 - (iv) it has an unqualified right of indemnity out of the assets of that trust in respect of its obligations;
 - (v) it either has no conflict of interest affecting it as trustee (and/or its directors, if any) or such conflict is otherwise overcome by the terms of the relevant trust deed; and
 - (vi) no breach of the relevant trust deed exists or would arise.

4. CANCELLATION OR POSTPONEMENT OF EVENT

- 4.1 If at any time during the Hire Period, the Event is cancelled or postponed for whatever reason, and irrespective of whether any acts or omissions of the Government Party caused or contributed to the cancellation or postponement of the Event (a "Cancelled Event" or "Postponed Event", respectively and as applicable):
 - (a) the Government Party may suspend the Suppliers' obligations under this Agreement in respect of the Cancelled Event or Postponed Event (as the case may be) by written notice and the Supplier will have no liability to provide any Equipment in respect of the Cancelled Event or Postponed Event; and
 - (b) the Government Party shall only be liable for:
 - (i) payments under the Agreement for Equipment accepted before the effective date of cancellation or postponement; and
 - (ii) any reasonable costs incurred by the Supplier that are directly attributable to the cancellation or postponement, if the Supplier substantiates these amounts to the satisfaction of the Government Party; and
 - (c) the Government Party will have no obligation to pay the Supplier the Price, or any other amounts:
 - (i) that could otherwise be construed as due and owing from the Government Party to the Supplier in respect of the Cancelled Event or Postponed Event (as the case may be); and
 - (ii) on account of any direct or indirect costs, expenses, losses incurred or suffered by the Supplier in relation to, or in the expectation of, hiring Equipment to the Cancelled Event or Postponed Event (as the case may be) including but not limited to loss or profits or opportunity.
- 4.2 The Supplier releases and forever discharges the Government Party from any Claims the Supplier may have, and any Liabilities it may suffer, as result of a Cancelled Event or Postponed Event (as the case may be).

Attachment 5 - Equipment

Description of Equipment	Quantity	Hire Period	Unit Price (exclusive of GST)	Charges (exclusive of GST)	GST Component
		<insert Delivery Location> <insert Delivery Time> <insert Collection Location> <insert Collection Time>			
Sub total					
Add GST					
TOTAL					