



TRAFFIC DIVERSIONS GROUP PTY LTD ACN 612 841 193

TERMS AND CONDITIONS

The following terms and conditions and pricing notes apply to the Customers transactions with TRAFFIC DIVERSIONS GROUP PTY LTD ACN 612 841 193 of 1 Jamieson Way, Dandenong South VIC 3175 ("Traffic Diversions Group") unless agreed otherwise in writing and are subject to change at any time.

1 PERFORMANCE OF THE SERVICES

- 1.1 Traffic Diversions Group will carry out the services: (a) in a proper and diligent manner; and (b) in the absence of any standards being specified, the services shall comply with the relevant standard of the Standards Association of Australia.
- 1.2 The Customer must make available to Traffic Diversions Group such access to the work site as reasonably necessary for Traffic Diversions Group to carry out and provide the services.

2 PRICING

- 2.1 The price for the services provided by Traffic Diversions Group to the Customer will be as per Traffic Diversions Group's then current Schedule of Rates.
- 2.2 Traffic Diversions Group's Schedule of Rates may be amended from time to time by notice in writing to the Customer.
- 2.3 Traffic Diversions Group will charge the Customer for the goods and services provided together with costs incurred by Traffic Diversions Group as a result of the following: (a) delays or complications in the delivery of goods and services due to difficult access to the site, misrepresentations made regarding access and description of the services required, or failure to provide particulars regarding access and the nature of services; (b) any changes imposed by a third party in connection with the services; or (c) any increase in existing or imposition of new taxes, customs duties or government levies.
- 2.4 Traffic Diversions Group shall provide the Customer with an invoice and the Customer shall pay Traffic Diversions Group within fourteen (14) days of date of invoice.
- 2.5 A certificate signed by an Traffic Diversions Group employee as to any sum payable to it shall be conclusive evidence and proof of the indebtedness of the Customer at the date of the certificate.
- 2.6 In the event the Customer fails to pay in accordance with these payment terms: (a) the Customer shall pay interest at the penalty interest rate specified in the Penalty Interest Rates Act 1983 (VIC) effective from time to time calculated daily from the day after the due date for payment the balance outstanding until the invoice is paid in full; or (b) Traffic Diversions Group may in its absolute discretion refuse to continue to provide the services ordered by the Customer; and (c) all debt recovery costs including legal costs on an indemnity basis (including in respect of the exercise of any security or the lodging/withdrawal of any caveats) and any mercantile agent costs shall be deemed to form part of the indebtedness of the Customer to Traffic Diversions Group.
- 2.7 The Customer shall not be entitled to set off against any invoice any money, debt or damages alleged to be owing by Traffic Diversions Group to the Customer.



- 2.8 Where the Customer disputes the invoice or any sum claimed in the invoice, it must:(a) pay the undisputed elements of the invoice; (b) within ten (10) business days notify Traffic Diversions Group in writing that it disputes all or part of the invoice and provide detailed reasons for the dispute, including providing copies of all supporting documents, and (c) request that the dispute be resolved in accordance with clause 2.9.
- 2.9 If a dispute regarding an invoice arises and the Customer notifies Traffic Diversions Group of the dispute in compliance with clause 2.8 the parties must, prior to the initiation of any legal action, use reasonable commercial efforts to resolve the dispute within fourteen (14) days of the date on which the notice was given to Traffic Diversions Group.
- 2.10 In the event the parties cannot resolve the dispute within this period the parties may take whatever action they see fit in relation to the dispute.
- 2.11 The Customer acknowledges and agrees that if it does not comply with clauses 2.8 or 2.9: (a) the Customer shall be deemed to have accepted the full amount claimed in the invoice issued by Traffic Diversions Group as being due and payable to Traffic Diversions Group; and (b) the full amount claimed in the invoices issued by Traffic Diversions Group shall become due and payable upon the expiry of the 14 days period set out in clause 2.4.
- 2.12 In the event an invoice is issued by Traffic Diversions Group which constitutes a 'payment claim' for the purposes of the applicable security of payments legislation of the relevant State or Territory: (a) clauses 2.8, 2.9 and 2.11 shall not apply to the invoice; (b) the applicable reference date that applies to the invoice shall be the business day immediately after the day by which the services or goods the subject of the payment claim were performed or supplied (as the case may be) by Traffic Diversions Group; and (c) the payment claim shall be due and payable by the Customer within fourteen (14) days of the date of the payment claim.

3 PAYMENT TERMS

Payment terms are strictly fourteen (14) days from invoice date unless specifically agree in writing by Traffic Diversions Group.

4 CREDIT TERMS

- 4.1 The Customer consents to Traffic Diversions Group seeking, obtaining and retaining consumer credit information and trade references concerning the Customer's credit worthiness from any business and credit reporting agencies.
- 4.2 Any credit terms given by Traffic Diversions Group are those terms and conditions set out in this document.
- 4.3 Credit facilities may be withdrawn without notice at Traffic Diversions Group's absolute discretion.
- 4.4 The Customer agrees to the terms and conditions set out in this document and acknowledges having understood the nature and effect of these terms and conditions.

5 SECURITY

- 5.1 Traffic Diversions Group may at its absolute discretion request security from the Customer in respect of amounts outstanding or for services to be provided in the future, and the Customer agrees to provide such security to Traffic Diversions Group upon such request.



5.2 Despite any other clause of these terms and conditions, Traffic Diversions Group will not be obliged to provide any goods or services to the Customer should the requested security not be provided to Traffic Diversions Group's satisfaction.

5.3 So as to better secure the payment of any monies, or performance of any obligation, under these terms and conditions, the Customer hereby charges in favour of Traffic Diversions Group all of the Customer's estate, right, title and interest in real estate (wherever situated in Australia) which the Customer now has, or may acquire in the future, and hereby consents to Traffic Diversions Group lodging a caveat on the certificate of title to any.

6 LIABILITY & WARRANTY

6.1 Traffic Diversions Group shall not be liable for any loss, damage (including incidental, consequential, or special damages), costs or expenses suffered by the Customer (or its employees agent, officers or staff) to person or property, arising from the services.

6.2 Notwithstanding the foregoing, Traffic Diversions Group's liability in the aggregate shall be limited to an amount not exceeding the price for the services in question which has been paid for by the Customer.

6.3 Where legislation implies into these Terms and Conditions any warranty which cannot be excluded, the liability of Traffic Diversions Group for any breach of such condition or warranty shall be limited, at Traffic Diversions Group's option, to one or more of the following: (a) the supply of equivalent services; or (b) the payment of the cost of replacement of the services or of acquiring the equivalent services.

6.4 The Customer releases Traffic Diversions Group from and indemnifies and must continue to indemnify Traffic Diversions Group against any liability to the Customer or any third party for any incidental, indirect, consequential, special, punitive or exemplary damages whatsoever and for any loss of profit suffered by any person.

6.5 Traffic Diversions Group does not accept liability for damage whilst moving Customer equipment.

6.6 Any signage and/or equipment that is stolen or damaged by a third party at a Customer site is to be replaced by the Customer at our replacement cost

7 INSURANCE

The Customer must have in place a public liability insurance policy in the amount of no less than \$20 million with a reputable insurer and must provide Traffic Diversions Group with a copy of such policy on request.

8 TERMINATION

8.1 If the Customer fails to perform any of its obligations under these Terms and Conditions, Traffic Diversions Group may immediately terminate the provision of services by written notice of termination to the Customer.

8.2 Traffic Diversions Group may terminate its agreement with the Customer by written notice: (a) if the Customer becomes insolvent or unable to pay its debts as they become due; (b) if the Customer discontinues its business or ceases to trade or is otherwise in breach of these terms and conditions; (c) if the Customer enters into any type of insolvency administration or makes an assignment of its creditors; (d) if a receiver, manager, liquidator or administrator has been appointed to Customer; (e) if there is a change of control of the Customer; (f) if the Customer dies or becomes incapacitated; or (g) for convenience.



- 8.3 In the event that the agreement with the Customer is terminated pursuant to this clause, any money owing by the Customer to Traffic Diversions Group becomes immediately due and payable and any asset of the Customer shall be automatically and immediately charged in favour of Traffic Diversions Group with the payment of all monies owed by the Customer to Traffic Diversions Group.
- 8.4 If Traffic Diversions Group is in possession of any asset owned by the Customer at the time the agreement with the Customer is terminated under clause 8.1 or any event in clause 8.2 occurs, the beneficial interest of the Customer in that asset shall be deemed to be assigned to Traffic Diversions Group absolutely and Traffic Diversions Group may dispose of that asset in whatever way it sees fit, including selling the asset, and apply the proceeds of sale of that asset against any debt owed to, or claim made by Traffic Diversions Group.

9 NON-SOLICITATION OF EMPLOYEES

An administration fee equivalent to 15% of an employee's annual salary or equivalent earning may, at Traffic Diversions Group's sole discretion, be charged to the Customer if: (a) the Customer, its employee, agent or introduced third party, make, or offer employment to an employee of Traffic Diversions Group and that employee accepts such employment; or (b) as a result of an introduction to a third party or another traffic control service provider, the employee is enticed to terminate their employment with Traffic Diversions Group; or (c) the employee is currently engaged by Traffic Diversions Group or had been engaged by Traffic Diversions Group within the preceding three (3) months.

10 FORCE MAJEURE

- 10.1 Traffic Diversions Group shall not be liable to the Customer for any delay or failure to perform its obligations resulting from circumstances beyond its reasonable control, including but not limited to, war, act of terrorism, riot, insurrection, strike, trade dispute, fire, earthquake, flood, storm, pandemic, government ordered shutdown, economic crisis or other disaster, damage to personnel, material, equipment or other property, or shortage of any materials or labour (each an example of "force majeure").
- 10.2 Where Traffic Diversions Group has incurred costs in the preparation for delivery of its obligations, including time, materials and other services, and where these costs cannot be mitigated upon notification of a cancellation of work or an event, irrespective of the source of this notification, these costs will be paid by the Customer.

11 INTELLECTUAL PROPERTY IN IT APPLICATIONS METHODOLOGIES AND PROCESSES

The IT applications, methodologies and processes used by Traffic Diversions Group in providing the services to the Customer under these terms and conditions, which includes but is not limited to the Alloc8 Software, are and will at all times remain the property of Traffic Diversions Group. The Customer has no legal ownership rights to such IT applications, methodologies or processes.

12 PRIVACY

Traffic Diversions Group may collect certain data and information from the Customer in the provision of the services to the Customer. The use and collection of such data and information will be pursuant to Traffic Diversions Group's Privacy Policy.



13 MISCELLANEOUS

- 13.1 The Customer shall not transfer, assign or otherwise grant the goods or services provided by Traffic Diversions Group to any third party without Traffic Diversions Group's prior written consent.
- 13.2 Any notice required to be given under these Terms and Conditions shall be in writing and delivered by post, email or personal delivery and shall be deemed to have been received: (a) on the date that it was sent if delivered personally or by email; or (b) two (2) business days after posting if sent by mail.
- 13.3 If any part of these Terms and Conditions are found void and unenforceable, it will not affect the validity of the balance of these Terms and Conditions, which shall remain valid and enforceable according to its terms.
- 13.4 The failure of a party to insist on the performance of an obligation hereunder shall not be deemed to be a waiver of such obligation or of any other obligation.
- 13.5 The laws of Victoria govern these Terms and Conditions.
- 13.6 These Terms and Conditions cannot be varied or amended without the prior written consent of Traffic Diversions Group.
- 13.7 Amendments made by hand by the Customer to these Terms and Conditions are not binding and will have no force or effect.

PRICING NOTES

14 GENERAL

- 14.1 All prices exclude GST.
- 14.2 Subject to longer minimum charge intervals or sums specified by Traffic Diversions Group, a minimum of four (4) hours charge applies to all requested shift resources unless a cancellation notice is received a minimum of two (2) hours prior to commencement of the arranged shift.
- 14.3 Time incurred by a traffic controller at site inductions will be charged at the relevant hourly rates and are subject to the four (4) hours minimum.
- 14.4 All daily charges apply irrespective of the length of shift.

15 MANDATED BREAKS AND ALLOWANCES

- 15.1 All Traffic Controllers are entitled to a paid break of fifteen (15) minutes every two (2) hours as per the relevant Australian Standard and State Codes.
- 15.2 A thirty (30) minutes unpaid meal break is required after five (5) hours during normal hours.
- 15.3 A thirty (30) minutes paid meal break is required after five (5) hours during weeknight or weekend hours.
- 15.4 An overtime meal allowance must be paid to all Traffic Controllers on or after 9.5 hours on shift.
- 15.5 No breaks apply to vehicles or other equipment.

16 TRAVEL

- 16.1 Where the Schedule of Rates denotes 'straight to site', hourly charges for the Traffic Controller, vehicle and other equipment commence from the time the shift commences on site.
- 16.2 Where the Schedule of Rates denotes 'depot to depot', hourly charges for the Traffic Controller, vehicle and other equipment commence from the time these leave the depot, or Traffic Controller residence, and cease when they return.

17 OVERTIME



- 17.1 Overtime T1.5 rates apply after eight (8) hours of a continuous shift (inclusive of any mandated breaks).
- 17.2 Overtime T2.0 rates apply after ten (10) hours of a continuous shift (inclusive of any mandated breaks).
- 17.3 If the Traffic Controller is required to stay away from their normal residence overnight and the Customer does not provide meals, then a living away from home allowance will be charged.
- 17.4 If accommodation is not provided by the Customer Traffic Diversions Group will charge this at the agreed rate dependent on available accommodation.
- 17.5 Mobilisation travel to and from away works will be charged at the applicable hourly rate.