

## CONTRACT TERMS AND CONDITIONS

Excel Lighting Services, LLC ("Company") hereby agrees to provide to you ("Customer") certain Equipment and/or Services, subject to and in consideration of the following terms and conditions (these "Terms"):

### 1. DEFINITIONS

1.1. "Company Group" means Company, its contractors, subcontractors, and affiliates and each of their respective officers, directors, employees, agents, consultants, servants and invitees.

1.2. "Equipment" means all equipment, tools, products, materials and supplies and/or merchandise rented or sold by Company and/or provided in connection with Services performed by Company.

1.3. "Services" means all services, including, without limitation, installation and removal of the Equipment, provided by Company.

### 2. GENERAL

These Terms constitute the sole and entire agreement governing the rental of Equipment or provision of Services by Company to Customer and supersede: (a) all prior discussions and agreements between Customer and Company, (b) other inconsistent terms submitted by Customer, and (c) any conflicting provisions of any contract, work order, purchase order or other similar document issued by Customer at any time. Customer shall be deemed to have accepted these Terms when Customer receives any Equipment and/or Services without previously providing to Company written notice of rejection of these Terms.

### 3. RENTAL AND SERVICE TERMS

3.1. Unless stated otherwise in Company's written quotation for the rental of the Equipment, rental charges will commence when the Equipment leaves the Company's location and will terminate when: (a) the Equipment is returned to and accepted by Company, or (b) with respect to Equipment that is not returned, Company is notified by Customer that such Equipment is lost or damaged beyond repair and will not be returned.

3.2. Payment terms are COD unless otherwise stated on Company's written quotation or there is an approved credit request indicating extended terms on file. Invoices shall be due and payable within the applicable period for payment from the date of the invoice. Invoices that are not timely paid shall be subject to interest charged at the rate of 1.5% per month. Customer will pay all of Company's costs, including attorneys' fees and expenses, incurred in connection with the collection of past due amounts from Customer.

3.3. Customer agrees to return each piece of Equipment to Company in as good condition as it was upon delivery to Customer. Customer's acceptance of delivery of Equipment indicates that Customer has inspected and found the Equipment to be suitable for its needs and in good condition. The signature of Customer's authorized representative on any receipt, purchase/rental order, delivery ticket, or invoice is conclusive evidence of this inspection and acceptance. Customer also has a duty to inspect the Equipment prior to use and notify Company immediately of any defects.

3.4. Customer assumes all risk of loss, destruction or damage to Equipment out of the possession of Company. With respect to Equipment in the possession and control of Customer that is not returned or is damaged beyond repair, Customer will reimburse Company an amount equal to the current list price (new) of such Equipment.

3.5. Customer agrees to pay Company the entire cost of any inspections performed by Company or a third party inspection service upon return of the Equipment. Where the Equipment is returned in an unclean, damaged, or defective condition, Company reserves the right to clean, repair, or replace such Equipment at Customer's sole cost and expense.

3.6. Unless otherwise stated in Company's written quotation, all transportation charges will be paid by Customer.

3.7. The Equipment shall at all times remain the property of Company. Nothing contained in these Terms shall confer any interest in the Equipment to Customer and Customer shall not assign, sublease, pledge, mortgage or encumber the Equipment or any interest therein.

3.8. COMPANY MAKES NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, AS TO DESIGN, OPERATION OR QUALITY OF THE EQUIPMENT, AND COMPANY MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PARTICULAR PURPOSE OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS AS BETWEEN COMPANY AND CUSTOMER ARE TO BE BORNE BY CUSTOMER WHETHER OR NOT SUCH EQUIPMENT IS OPERATED UNDER COMPANY'S SUPERVISION AND ALL SUCH EQUIPMENT IS HEREBY ACCEPTED BY CUSTOMER "AS IS, WHERE IS."

3.9. ANY ASSISTANCE IN EQUIPMENT INSTALLATION OR TECHNICAL INFORMATION CONCERNING THE EQUIPMENT OR SERVICES PROVIDED BY COMPANY WILL BE ADVISORY ONLY AND SHALL NOT CREATE ANY WARRANTY. COMPANY WILL NOT BE LIABLE FOR ANY LIABILITIES, LOSSES, CLAIMS, FINES, PENALTIES, DEMANDS, CAUSES OF ACTION, PROCEEDINGS, DAMAGES AND PENALTIES ARISING

FROM ITS FURNISHING OR CUSTOMER'S USE OF SUCH ASSISTANCE OR INFORMATION.

3.10. COMPANY WILL NOT BE RESPONSIBLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, WHICH SHALL INCLUDE LOSS OF REVENUE, PROFITS OR ANTICIPATED PROFITS, LOSS OF BUSINESS OPPORTUNITY, LOSS OF PRODUCTION, DAMAGES FOR FAILURE TO MEET DEADLINES, OR LOSS OF USE.

### 4. INDEMNITY

4.1. CUSTOMER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS COMPANY GROUP FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, COSTS (INCLUDING REASONABLE ATTORNEYS' FEES AND COURT COSTS), EXPENSES, LIABILITIES, AND CAUSES OF ACTION OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER SUCH CLAIMS ARE BASED ON THEORIES OF CONTRACT LAW, TORT LAW OR OTHERWISE, DIRECT OR INDIRECT, INCLUDING SPECIAL AND CONSEQUENTIAL DAMAGES ARISING OUT OF DELIVERY, PICK UP, REPAIR, USE OR OPERATION OF THE EQUIPMENT OR ARISING IN CONNECTION WITH BODILY INJURY OR DEATH OR PROPERTY DAMAGE, DESTRUCTION, OR ECONOMIC LOSS BECAUSE OF LEASE, RENTAL, PURCHASE, DELIVERY, INSTALLATION, POSSESSION, OPERATION, USE, CONDITION OR RETURN OF THE EQUIPMENT WHETHER BY COMPANY GROUP, CUSTOMER OR ANY OTHER PERSON OR ENTITY IRRESPECTIVE OF WHETHER COMPANY GROUP MAY BE ALLEGED OR PROVEN AND TO HAVE BEEN NEGLIGENT OR OTHERWISE LEGALLY LIABLE (WITH OR WITHOUT FAULT OR WHETHER STRICTLY LIABLE OR IN BREACH OF ANY WARRANTY).

4.2. Customer shall carry and maintain in effect, at its own expense, with insurers acceptable to Company, insurance covering the Equipment for full replacement costs and for loss of rents on such Equipment, from date of shipping, during the entire rental term, until such Equipment has been returned to Company. Such insurance shall cover all risks of physical loss or damage by fire, theft, water, act of vandalism or act of God. If requested, Customer shall provide Company with a current certificate of insurance as evidence of such insurance policy. If Customer does not maintain sufficient insurance coverage, Customer may elect to purchase a Loss Waiver ("LW"), which is NOT INSURANCE, from Company. If the Equipment is used in strict compliance with these Terms, and if Customer accepts a LW and pays all amounts due under the Contract and these Terms and all additional charges for the LW when due, Customer shall only be required to reimburse Company for loss or damage to the Equipment in an amount equal to \_\_\_\_\_ percent (\_\_\_%) of the total cost under the Contract and these Terms. If Customer rejects a Loss Waiver and the Equipment is lost or damaged, Customer shall be responsible for all costs incurred in repairing or replacing (current list price, new) the Equipment, and Customer expressly authorizes Company to charge Customer's credit card on file with Company for such charges without further authorization or consent.

### 5. MISCELLANEOUS

5.1. These Terms may not be altered or amended unless agreed to in writing by Customer and Company. Failure of Company to object to any provisions that may be contained in any other writing of Customer shall not be construed as a waiver of these Terms or an acceptance by Company of any other terms and conditions of Customer.

5.2. Company will not be responsible for any delays or damages caused by events of force majeure or any other occurrences beyond Company's control. Force majeure shall not, however, excuse payment by Customer to Company prior to, during, or subsequent to such event.

5.3. The delay or failure of Company to strictly enforce any provision herein shall not be construed as a waiver or forfeiture of Company's right of subsequent enforcement thereof. The express waiver of one provision of these Terms shall not be deemed a waiver of any other provision herein. All parts hereof are separable and the invalidity of any part hereof shall not affect the validity of any other parts.

5.4. Neither party may assign or transfer any rights, duties, or obligations under these Terms without the prior written consent of the other party.

5.5. These Terms shall be governed by and construed in accordance with the laws of the State of Maryland. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, these Terms may be brought against either of the parties in the courts of Baltimore County, State of Maryland or, if it has or can acquire jurisdiction, in the United States District Court for the District of Maryland, and each party consents to the jurisdiction of such courts in any such action or proceeding and waives any objection to personal jurisdiction or venue therein.