

## Our Terms and Conditions

We thank you for choosing Mackie Plumbing & Gas and/or Mackie Waste Management for your plumbing and waste needs. If you have any queries and require an immediate response please contact us on 1800 622 543.

The following terms and conditions are the conditions of the Company in relation to the Service and any such Service is undertaken upon the following conditions unless specifically agreed in writing between the Company and the Customer.

### Definitions

1. In these terms and conditions ("Conditions") the following definitions shall have effect unless the context otherwise dictates:
  1. "Company" or "MPG" shall mean Mackie Plumbing and Gas Pty Ltd, (Trading as Mackie Plumbing and Gas and/or Mackie Waste Management) (ABN 29168696204)
  2. "Supplier" shall mean any person firm or company authorised by the Company to act on its behalf in the provision of the Service.
  3. "Customer" shall mean the person firm or company any person, firm or corporation for who any Service is undertaken by the Company.
  4. "Service" shall mean the collection transportation and/or disposal of waste materials and/or any industrial activity on site on behalf of the Customer as set out in the Contract and any other services that the Company provides to the Customer
  5. "Contract" shall mean the contract between the Company and the Customer for the supply of the Service in accordance with these Conditions.
  6. "Order" shall mean the Customer's order for the Service as set out in the Customer's purchase order form or the Customer's written acceptance of a quotation by the Company as the case may be
  7. "Quotation" shall mean the description or specification of the Service provided in writing by the Company to the Customer
  8. "Equipment" shall mean any Container and any tools and other property supplied by the Company or the Supplier in connection with the provision of the Service.
  9. "Supplies" refers to any part / material supplied in undertaking scope of works on job
  10. "Site" means the address specified by the Customer for the performance of the Works;
  11. "Charges" means the cost of the Equipment, Parts or Works as agreed between Mackie Plumbing & Gas and the Customer
  12. "Site" means the address specified by the Customer for the performance of the Works;
  13. "Works" or "Services" means the repair works, or services performed by the Company for the Customer (or at the request or direction of the Customer);
  14. "Waste" shall mean any waste materials to be collected, disposed of or recycled by the Company as part of the Service
  15. "Waste Transfer Note" shall mean any waste transfer notes relating to all or any part of the Waste

In these Conditions, the following rules apply:

1. a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
2. a reference to a party includes its personal representatives, successors or permitted assigns;
3. a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
4. any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
5. a reference to writing or written includes emails.
6. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
7. The contract shall be governed by the law of the Australian State or territory in which the contract is made and the parties agree to submit to the jurisdiction of the courts of that state or territory

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8. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
9. The Customer warrants that the Customer has the power to enter into this agreement and has obtained all necessary authorisations to allow the Customer to do so, the Customer is not insolvent or bankrupt and that this agreement creates binding and valid legal obligations on the Customer.

#### **Statutory obligations / Acceptance**

1. Any instructions received by Mackie Plumbing & Gas from the Customer for the supply of labour, parts and Quotes and/or the Customer's acceptance of Equipment/Services by Mackie Plumbing & Gas shall constitute acceptance of the terms and conditions contained herein.
2. Where more than one Customer has entered into this agreement, the Customer's shall be jointly and severally liable for all payments of the Charges.
3. Upon acceptance of these terms and conditions by the Customer the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of the Company
4. It is deemed that the Customer has agreed to Mackie Plumbing & Gas' rates, charges, terms & conditions on proceeding to order Services and Equipment from Mackie Plumbing & Gas.
5. It is a condition of every Contract entered into by the Company and the Customer warrants to the Company that that the Customer shall obtain and maintain (and produce evidence thereof when requested by the Company) all necessary registrations, licences and consents and shall comply with all relevant legislation and the requirements of government or any statutory local or public authority in relation to the Service or to the use of any Equipment by the Customer
6. Should the scope of works be changed from the time of quotation, MEC will either re-quote the project or list the additional works as a formal and paid variation for the project.
7. MPG may make mention of this project for marketing and public relation purposes

#### **Terms of payment**

1. The Customer must pay all charges on the same day of receipt of an invoice by Mackie Plumbing & Gas unless other arrangements have been agreed to in writing.
2. Payment may be made by cash, cheque, EFT/internet banking or by credit card. If paying by EFT or cheque remittance must be emailed to [reception@mackieplumbingperth.com.au](mailto:reception@mackieplumbingperth.com.au) on the day of payment to avoid any additional charges.
3. The Charges shall be increased by the amount of any GST and other taxes and duties which may be applicable, except where such taxes and duties are expressly included in any pricing given by Mackie Plumbing & Gas.
4. Mackie Plumbing and Gas reluctantly reserve the right to charge a \$100 administration fee for any overdue invoices, any late payments on credit card will also incur up to 2% surcharge for Merchant fees.
5. If the Customer fails to pay the Invoice (or any part of the Invoice) within 30 days debt collector fees, plus any further debts incurred by The Company by undertaking a third party collection agency will be passed onto the Customer.
6. Any Scheduled Maintenance Plans entered into by the Customer with the Company will be invoiced [at such times as are set out in the Contract or otherwise upon completion of the provision of the Service] and payments must be made within 14 days of invoice, unless agreed to in writing with the Company. The Customer shall not be entitled to delay or withhold payment on account of any alleged set-off or counterclaim. Time for payment shall be of the essence of the Contract.

#### **General**

1. Notice: Any notice, Invoice or document relating to the Agreement will be deemed to be served: a) on the second business day after the date on which it was posted – if sent by ordinary pre-paid post addressed to the Customer; OR b) on the day on which it was sent – if it is sent: (i) by email transmission before or during normal business hours on a business day (ii) by email transmission after normal business hours on a business day or on a day other than a business day.
2. Severance: If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

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If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

3. Waiver: A waiver of any right under the Contract, these Conditions or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract, these Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
4. No partnership or agency: Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
5. Third parties: A person who is not a party to the Contract shall not have any rights to enforce its terms.
6. Variation: Except as set out in these Conditions, no variation of the Contract or these Conditions, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the, these Conditions.
7. The Company accept no responsibility for Client supplied goods and materials. Any call back caused by malfunctioning or fault of materials supplied by the Client will be charged to the Client. Similarly, any warranty queries with Client supplied materials must be raised with the manufacturer or place of purchase by the Client
8. MPG shall not be bound by or remain responsible for any term, condition, representation or warranty other than which is given by the manufacturer of the good
9. Where an Electrician has been engaged to commission an additional power point it is assumed that existing wiring is RCD protected and all existing electrics on the property are up to minimum electrical Australian standards. Any additional works required to bring the existing electrical up to standard is chargeable to the customer and in the event the Company are required to engage a debt collection agency all costs incurred by the collection agency are payable by the customer.
10. All Hot Water Installation Quotes assume, unless otherwise indicated;
  - a) that gas supply to the existing system, is a 20mm supply for all instant gas systems and/or
  - b) Is sufficient to meet Australian Gas Standards and has been sized correctly for original installation to achieve required burner pressure.
  - c) That the properties existing gas supply is gas tight and gas pressure holds `gas tight; giving a 0.00KPA pressure drop over a five (5) minute test.
  - d) MPG assumes that the Customer has sought direct advice, regarding warranty for all HWU installations not undertaken by Mackie Plumbing and Gas prior to engaging MPG to site to quote on repair or replacement options. Unless installed by MPG it is the Customer's responsibility to advise MPG if the unit falls within manufacturer warranty. It is then at the Customer's discretion to undertake any warranty replacements direct with the manufacturer and can request MPG quote on labour and install costs following receipt of manufacturer replacement items.
11. The Company is not allowed to leave a property if the gas pipe is undersized or there is a leak present. In the event gas is required to be upgraded or the size of the pipe needs to be increased the additional labour and materials required will be on charged to the customer at MPG's labour cost and the cost of materials used on charged to customer as required.
12. All prices quoted are based on the existing HWU complying with Australian Gas and Plumbing Standards
13. Unless indicated, prices do not include installation of additional valves if required to bring the system up to standard. In the event the system requires additional valves the cost of these valves is on charged to the customer
14. Any site visits for relighting the Pilot Light on Hot Water Units will incur a minimum charge of one hour labour.
15. Unless otherwise stated quote doesn't include removal of existing system. Removal of existing units from premises incurs additional charges unless otherwise quoted and stated by the Company in writing, old systems will be collected by the Friday of the installation week in the event the tradesman is unable to collect on install day.
16. The Company have incorporated the STC discount into our pricing structure, and include it at the point of sale, so all STC rebates are payable to Mackie Plumbing & Gas. On completion of works MPG will request customers sign receipt of the installation and agree that the STC

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rebate has been awarded. In the absence of signing this form or refusal MPG will on charge the rebate amount to the Customer at \$1000 + GST.

17. Mackie Plumbing assume the current gas runs on the property are gas tight and the quote doesn't allow for finding or repairing any gas leaks not on our work.
18. Mackie Plumbing and Gas guarantee all of their drainage work for a minimum of seven (7) years. MPG can only guarantee drainage installed by the Company and don't warrant any existing drainage unless specifically mentioned in the quote.
19. Unless indicated, the quote doesn't include the removal of old earthenware pipe or PVC.
20. Whilst Mackie Plumbing and Gas will make their best endeavours to re-instate all performed excavation to its original state, we take no responsibility for any damage to fauna, plants, garden, grass, reticulation or solenoid wiring, or any unexpected damages caused by digging.
21. Toilet Installation quotes - Mackie Plumbing and Gas quote doesn't allow for replacement of the Flexible hose, mini-stop and Chrome back plate unless specifically mentioned.
22. All Mackie Plumbing and Gas quotes requiring digging of any nature are made with the assumption that all of the soil being dug is of reasonable excavation matter, ie. Ease of excavation as required by hand digging with a shovel. Quote doesn't allow for root or rock bound soil, services in the ground making the quoted task more difficult than anticipated pre-excitation or anything in the ground which makes digging more difficult than what was originally anticipated when quoted. In the presence of any of the items mentioned above making excavation more intensive than anticipated Mackie Plumbing and Gas are entitled to charge their additional labour spent digging at their hourly rate and on-charge the use of any machinery or plant if/as required.
23. When quoted Mackie plumbing and gas assumed that any concrete that is being cut or removed is no thicker than 150mm including road base below the concrete and is at its maximum depth no more than 150mm thick and is reinforced with standard Rio reinforcing steel. In the event that the concrete slab being remove cut is thicker than 150mm Mackie plumbing and gas are entitled to charge their additional labour spent cutting at hourly rate as well as charging the use of commercial concrete cutting machinery such as a wet saw. MPG are also entitled to on charge the disposal cost of the excess concrete or road base.
24. Mackie plumbing and Gas dial before you dig before commencing any excavation works on any site and will endeavour to not disturb any existing services, however MPG take no responsibility for the damage of services not located in the correct location that they are seen in the Dial before you dig plans. MPG also take no responsibility for any services that are damaged or affected by MPG carrying out works if they aren't the minimum depth below the finished floor level as stipulated by Australian standards. In the event MPG disrupt or damage services that are not laid and installed in accordance with Australian standard minimum coverage and signage then MPG are entitled to back charge the customer for any rectifications if required.
25. Unless otherwise specified MPG assume customer supplied basins or sink will come with plug and waste. NOTE: MPG to be specifically notified in writing; email confirmation is sufficient. This however will change quoted amount.

**NB:** The gas cock is a plumbing fitting/valve placed in the gas line which is used to control the flow of natural gas or propane through a pipe. The gas cock may be used to increase or decrease gas flow, though they are more commonly used to shut off gas completely. Hot Water Units must have a functioning gas isolation point to comply with Australian Gas Standards. This is a legal requirement and if required will be added to the quoted amount, unless it has already been included or specified.

#### **Customer's premises and obligations**

1. The Customer must notify the Company before any supply of a Service is commenced of any particular requirement of the Customer relating to health and safety at work and of any security arrangements that may need to be observed or any hazards, risks or dangers that may arise during or as a result of the Company, Supplier or their employees, agents or contractors undertaking any Service on the premises of the Customer.
2. The Customer shall provide the Company, the Supplier, their employees, agents and contractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required for the provision of the Service;
3. Provide the Company and the Supplier with such information and materials as they may reasonably require in order to supply the Service, and ensure that such information is accurate in all material respects.

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4. If a Service is required by the Customer involving vehicle movement the Customer shall afford reasonable, safe and adequate access and space in which loading and unloading operations, delivery and collection may be carried out without risk of damage to the vehicle, its driver or its load and without obstruction to the public highway.
5. The Company reserve the right to refuse to carry out any Service if it considers that the Service required might place at risk any person, goods, vehicle or property.
6. The Customer shall not, without the prior written consent of the Company, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

#### **Time of Services/Works**

1. When the Supplier calls on the Customer to perform any part of the Service the Customer shall ensure that the Equipment is ready and available at the time of collection by the Supplier. The Company and the Supplier shall not be under any obligation to carry out any Service nor be liable to the Customer where the Customer is in breach of this condition, but nevertheless the Company reserves the right to make a wasted service charge. The Company also reserves the right to charge for any failed collection caused by circumstances outside the control of the Company.
2. Where the Company is unable due to Bank or Public Holidays, breakdown or circumstances outside its reasonable control to carry out any Service on the day notified to the Customer, the Company shall make all reasonable efforts to carry out such Service as soon as practicable thereafter

#### **Basis of Waste Management Contract (APPLICABLE TO WASTE MANAGEMENT DIVISION ONLY)**

1. The Company shall arrange collection and disposal of or, in appropriate circumstances, recycle Waste subject to the Contract and these Conditions. The Company shall not accept toxic, dangerous, hazardous or special waste.
2. The Order constitutes an offer by the Customer to purchase Service in accordance with these Conditions. The Order shall only be deemed to be accepted when the Company issues written acceptance of the Order or, if earlier, the Company starts to provide the Service, at which point and on which date the Contract shall come into existence.
3. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Company which is not set out in the Contract.
4. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. Any conditions contained in an Order which conflict with any of these Conditions shall be deemed to be inapplicable to any Order unless expressly agreed by the Company in writing when acknowledging an Order.
5. Any quotation given by the Company shall not constitute an offer, and is only valid for a period of 28 days from its date of issue (unless previously withdrawn by the Company).
6. The Company shall have the right to make any changes to the Service which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Service, and the Company shall notify the Customer in any such event.
7. The Company's or Supplier's employees or agents shall not be required to undertake any Service outside the terms of the Contract and furthermore the Customer shall not request such employees, agents or contractors to do so without the Company's or Supplier's prior agreement.
8. It is the owner/occupants responsibility to obtain development approval if/as required
9. Owner/occupants will provide MPG with site PDF plans to council standard
10. Existing stormwater system on site will allow for MPG's proposed system
11. Application, unless specifically stated in writing, only requires local government/local council approval, MPG have not made allowance for additional fees and associated labour charges for Department of Health application and/or additional approvals
12. MPG reserve the right to withhold handover of apparatus if payment for MPG services and work is withheld
13. If lab test required for waste removal, additional \$70+ GST on top of quoted amount
14. If bog out required following waste removal additional \$70+ GST on top of quoted amount
15. Septic Waste K210 - \$0.32 per Litre + GST  
Grease Trap Waste K110 - \$0.32 per Litre + GST  
Oil Water (Floccable) J130 and J140 Overcharged Effluent - Hydrocarbons - \$0.32 per Litre + GST  
Oil Sludge (more than 30% solids) J180 Overcharged Effluent - Hydrocarbons - \$0.32 per Litre + GST
16. L100 - 150 Industrial Wash Waters. Upgraded from oil water J130. Increase per litre charge from 32c to 39c + GST

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17. L100 – 150 Industrial Wash Waters, upgraded from oil water class J130 to L100 -150 IWW – High Strength 97c + GST per litre

#### **Nature of waste materials (APPLICABLE TO WASTE MANAGEMENT DIVISION ONLY)**

1. The Customer warrants that no material change in the nature of the Waste shall take place during the Contract. Where the Waste differs from the quotation or any waste transfer note the Company reserves the right either to refuse to accept such Waste or to apply additional charges (at rates agreed with the Customer or failing agreement at the Company's then standard rates) in relation to its collection, disposal or recycling
2. The Customer shall sign a single or multiple consignment waste transfer note declaring the Waste type and shall ensure that the Waste is accurately described when completing the waste transfer note.
3. The Company reserves the right not to accept any waste which by reason of size or weight is difficult to collect or dispose or in respect of which a waste transfer note has not been properly completed and signed.

#### **Changing circumstances**

1. If it becomes apparent for reasons not disclosed by the Customer or which could not have been foreseen by the Company at the time of entering the Contract or commencing the work that the Service to be undertaken differs from that originally envisaged and/or set out in any quotation, the Company shall notify the Customer accordingly giving particulars as soon as reasonably practicable after the circumstances become apparent and the Company shall be entitled either to terminate the Contract without any liability to the Customer or to payment for additional work (at rates agreed with the Customer or failing agreement at the Company's then standard rates).
2. Should the Company elect to cease the provision of the Service in the changed circumstances, the Contract shall be deemed to be terminated. Upon such termination the Company shall be entitled to charge for any work carried out up to the time of termination and to be reimbursed for the costs associated with commitments and liabilities entered into pursuant to the Contract and for any Equipment or other items provided or intended to be provided for the purpose of the Contract.
3. The Customer shall pay additional charges at the rates agreed with the Customer or failing agreement at the Company's then standard rates occasioned by:
  - a. any additional costs arising from changes to the agreed frequency or volumes of Service as notified by the Customer.
  - b. any delay caused by any act or omission of the Customer or its employees, agents or contractors.

#### **Council, Oil Water Separator and Trade Waste Applications**

1. Dewatering if required has not been allowed for in MPG Quotes and will be subject to additional charges.
2. All quotes by Mackie Plumbing and Gas undertaken are done on the assumption approval will be granted based off previous applications undertaken by MPG, every application to council is approve on job by job and site by site basis. MPG are unable to guarantee council approval will be granted. In the event additional plans, drawings, approvals are required outside of what has been specified in the MPG quote these items will be charged as additional.
3. MPG assumes that the existing stormwater and drainage on site is up to current standard. MPG quotes do not allow for getting the existing site storm water, drainage or site drafted. In the event site drafts are required for MPG to get the proposed system approved additional costs will be incurred as follows;
  - a) MPG Tradesman additional labour invoiced at \$115+ GST per hour
  - b) MPG office Cost – Application and meetings etc at \$110 + GST
  - c) Subcontractor costs incurred eg. Drafting, additional application fees, etc – Cost of invoice x 10%

#### **Limitation of Company's liability**

1. Except for defects in the Service which shall have been notified by the Customer to the Company in writing within 14 days after the date of the provision of the Service the Company shall not be liable for any claim, loss or damage howsoever arising in respect of any defect in the Service whether due to any act, neglect, default of the Company, the Supplier or their employees, contractors or agents or

otherwise, and all warranties and conditions express or implied are hereby excluded to the extent permitted by law.

2. In particular (without prejudice to generality of the foregoing) the Company shall not be liable for any such claim, loss or damage resulting from: (i) any circumstance arising outside the reasonable control of the Company or the Supplier, (ii) any instruction given by or any act or omission of the Customer or his servants or agents, (iii) any inherent or latent defect which the Company or the Supplier could not reasonably have discovered or rectified, (iv) any material breach by the Customer of any of these Conditions required to be observed or performed by the Customer or, (v) any damage howsoever caused by any Equipment.
3. Nothing in these Conditions shall limit or exclude the Company's liability for
  - a. death or personal injury caused by its negligence, or the negligence of the Supplier or their respective its employees, agents or subcontractors;
  - b. fraud or fraudulent misrepresentation

### **Termination**

1. Without limiting its other rights or remedies, either party may terminate a Contract by giving the other party one months' written notice.
2. Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if:
  - a. the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 days of the Customer being notified in writing to do so;
  - b. the Customer, being a company or limited liability partnership becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Customer (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Customer's assets or business, or if the Customer makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt
  - c. the Customer (being an individual) is the subject of a bankruptcy petition or order, is deemed either unable to pay its debts or as having no reasonable prospect of so doing;
  - d. the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
  - e. the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
3. Without limiting its other rights or remedies, the Company may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 14 days after being notified in writing to do so.

### **Consequences of termination**

On termination of the Contract for any reason:

1. the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Service supplied but for which no invoice has been submitted, the Company shall submit an invoice, which shall be payable by the Customer immediately on receipt;
2. the Customer shall return or make available for collection all of the Equipment. If the Customer fails to do so, then the Company may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
3. the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
4. clauses which expressly or by implication survive termination shall continue in full force and effect.
5. Cancellation for projects may incur cancellation fees for any incidentals or charges worn by MPG for the purpose of the booking