

Terms and Conditions

- (k) comply with all relevant laws and Australian Standards (which compliance the Customer may require the Supplier to demonstrate on request).
- 6.2. The Supplier warrants to the Customer that the performance of the Services:
- will comply with every aspect of the Services' description in an Order or, if there is no description, the highest industry quality standards for their performance;
 - will be performed with all due skill and care normally exercised by qualified and experienced persons in the performance of similar services;
 - will provide the functionality and performance represented by the Supplier;
 - will be provided to the Customer free of any restrictive covenants imposed by any other party; and
 - will comply with all relevant laws and applicable Australian Standards (such compliance the Customer may require the Supplier demonstrate on request).
- 6.3. All warranties implied at law will apply to the Goods in addition to any warranty H[S UHVVO\ VHW RXW LQ WKVH & RQLWLRQV R U W R
7. **Payment terms and GST**
- 7.1. The amount payable for the Goods and/or Services/Works by the Customer will be the Price exclusive of GST, subject to clause 7.2. The Price is a fixed price and is not subject to any adjustment on account of cost of materials, delivery charges, rise or fall in labour rates or any other causeless otherwise agreed in writing between the parties. The Price includes the cost of all necessary packaging, freight/delivery charges, insurance and having any necessary import licences, customs duty and all other duties, taxes (other than GST), levies or other charges payable in relation to manufacture and supply of the Goods or Services.
- 7.2. The Customer must pay to the Supplier any amount which is payable by the Supplier on account of GST as a consequence of any supply made to the Customer under this Order.
- 7.3. Following receipt of a valid Tax Invoice under clause 7.4 and subject to satisfaction of clause 7.5, the Customer will pay the Supplier on the later of the date that is:
- specified in the Order or
 - if no date is specified in the Order, 30 business days from the date the Tax Invoice is received; or
 - the date that is 30 business days from which the Responsible Employee has certified the Goods supplied or the Services performed are satisfactory in accordance with clause 7.5.
- 7.4. The Supplier must give to the Customer within 30 days after delivery of a Good or performance of a Service a Tax Invoice which:
- is fully compliant with the GST Act; and
 - states the Order number, full details of the Goods delivered or Services performed, the Price and any other information that the Customer may require.
- 7.5. Payment is subject to the Responsible Employee (acting reasonably) certifying that the Goods supplied or the Services performed comply with the Order.
- 7.6. The Supplier may not vary the price or scope of any Goods or Services without the prior written consent of the Customer.
8. **Indemnities and Limitation of Liability**
- 8.1. The Supplier indemnifies the Customer against Liability, claims, damages, suits, actions, losses, demands, actions, costs and expenses (to the extent any person arising directly or indirectly from:
- any negligent act, omission or unlawful action by the Supplier or any of its Personnel;
 - any injury or death of any person or damage or destruction of any property to the extent caused by any act or omission of the Supplier in the supply of Goods and Services to the Customer;
 - any infringement of a third party's intellectual property rights in the Goods and/or Services
- except to the extent that such Liability or Loss is caused or contributed to by a negligent or unlawful act or omission, or breach of the Order or these Terms, by the Customer
- 8.2. Where the indemnity in clause 8.1 is of a continuing nature, any payment made pursuant to that indemnity does not satisfy or discharge the indemnity, and this only occurs by the resolution of the event giving rise to that indemnity.
- 8.3. The Supplier is deemed to be aware of the inherent dangers and risks in the Customer's activities, and accordingly the Supplier:
- releases the Customer from all Liability arising from or in connection with any injury or death of the Supplier's employees, agents or contractors on the Customer's premises except to the extent the Customer (or its 3HUVRRQHQ FRQWULEXWH WR WKH /LDELOLW\ 3HUVRRQHQ V IDLOXUH WR PLWLJDWH VXFK /LDELOLW\ 14.3. For the avoidance of doubt if the Supplier is providing Goods and Services Works the Supplier must have insurance in place as set out in clause 14.4.
 - must insure itself fully in respect of all potential public liability claims.
- 8.4. If the Goods or any property of the Customer are damaged as a result of the act or omission of the Supplier or Supplier's Personnel the Customer may, at its election:
- require the Supplier to rectify and repair the Goods D Q G W K H & X V W R P H U I V property at the Supplier's cost;
 - require the Supplier to resupply the Services; or
 - deduct from the Price the cost of having the Goods repaired or the Services resupplied by others
- 13.5. If the Works or any property of the Customer are damaged by the Supplier or Supplier's Personnel the Customer may, at its election:
- require the Supplier to rectify and repair the works and the Customer's property; or
 - deduct from the Price the cost of having the works rectified by the Customer's Personnel
9. **Confidentiality**
- 9.1. If in the performance of these Conditions or otherwise a party (Receiving Party) obtains or becomes aware of any sensitive or confidential information relating to the other party (Disclosing Party) or its business partners or customers (Confidential Information), the Receiving Party must not, without the Disclosing Party's prior written consent, disclose to any person the Confidential Information, except to those of its employees that are reasonably necessary in order to perform its obligations in connection with these Conditions or an Order then on a strictly confidential basis and must ensure that its employees comply with these obligations of Confidentiality. The Supplier must immediately notify the Customer if it knows of, or suspects, any unauthorised disclosure of the Confidential Information. This obligation survives the satisfaction or termination of an Order.
- 9.2. The Supplier must not reproduce an Order or advertise or publish any details of an Order without the Customer's prior written consent.
10. **Intellectual property**
- The Supplier assigns to the Customer ownership of all copyright and other intellectual property rights in and to all documents, drawings, maps, characters, images, photographs, artwork, blueprints, calculations, information and instructions (Documents) the Customer prepared in connection with an Order. The Supplier warrants that unless otherwise provided in the Contract, the Supplier owns the copyright in the Documents provided by the Supplier.
11. **No relationship**
- The Supplier is not an employee, agent or representative of the Customer and has no authority to act on behalf of the Customer.
12. **Termination**
- 12.1. Without limiting the Customer's rights under this Condition and Order the & X V W R P H U I V V R O H O L D E L O L W \ W I R A T I O N \ 6 X S S Order (to the extent that the Order has not been fully satisfied), immediately on written notice to the Supplier if the Goods and/or Services/Works delivered by the Supplier are not in accordance with the requirements of the Order are defective in quality, workmanship, material or otherwise or the Supplier has breached any material provision of these Conditions.
- 12.2. Following such termination, the Responsible Employee will value any Goods and/or Services or Works received at the date of termination to re-evaluate the Price payable (acting reasonably)
- 12.3. Notwithstanding the termination of any Order under this clause the Supplier remains liable under these Conditions to the Customer in respect of any Goods or Services or Works provided up to the time of termination.
- 12.4. 7 K H & X V W R P H U I V V R O H O L D E L O L W \ W I R A T I O N \ 6 X S S Order (to the extent that order has not been fully satisfied) pursuant to this clause 12, is limited to payment for those Goods received and/or Services or Works actually provided in accordance with the Order.
- 12.5. This Agreement will terminate immediately upon written notice by a party (Defaulting Party) if:
- the other party (Defaulting Party) breaches a material term of these Conditions and that breach has not been remedied within 10 Business Days of the Defaulting Party being notified of the breach by the Defaulting Party; or
 - the Defaulting Party goes bankrupt, insolvent or is otherwise unable to pay its debts as they fall due.
- 12.6. Termination pursuant to this condition does not affect any existing rights or obligations of either the Supplier or the Customer.
13. **Notices**
- 13.1. Any notice, approval, consent or other communication to be given under this Order must be given or served in writing and may be delivered by hand or sent by email to the other party at its address appearing in this Order. Notices are deemed to be properly given or served on the date of hand delivery or, if emailed, upon the sender receiving an electronic notice indicating the email had been delivered.
14. **Insurance**
- 14.1. For the supply of Goods the Supplier warrants that it has in place, and will keep current, and will not vitiate or render void or voidable, public liability insurance for the period of the Order with a level of cover per event of \$10 million AUD.
- 14.2. For the supply of Services and/or Works the Supplier warrants that it has in place, and will keep current, and will not vitiate or render void or voidable, public liability insurance for the period of the Order with a level of cover per event of \$10 million AUD and professional indemnity insurance during for a period of six years after the Order is fulfilled with a level of cover of \$10 million AUD.
- 14.3. For the avoidance of doubt if the Supplier is providing Goods and Services Works the Supplier must have insurance in place as set out in clause 14.4.
- 14.4. For the supply of Goods and/or Services/Works the Supplier warrants that it will have in place at all times, any other insurance required by any applicable law or Authority from time to time for the period of the Order.
15. **Disputes**
- 15.1. Any dispute between the parties concerning an Order will be dealt with as follows:
- the Customer must refer the dispute to its Responsible Employee and the Supplier must appoint an equivalent officer, who together must attempt to resolve the dispute;
 - if the dispute has not been resolved within 3 weeks after referral, the parties must refer the dispute to their respective managing directors or their agreed appointees; and

- (c) if the dispute has not been resolved within 2 weeks, the parties must appoint an expert by agreement (failing which, the expert will be as appointed by the National President, or acting National President for the time being, of the Resolution Institute). The matters in dispute must then be promptly referred by the parties to the expert for determination. In making its decision, the expert will act as expert and not arbitrator. The cost of the expert will be borne by the parties in accordance with the expert determination.

16. Variations

- 16.1. The Supplier must not make any change or variation to the Services and/or Goods without the prior written approval or instruction of the Customer. The Customer may at any time vary the Services by giving notice in writing to the Supplier.
- 16.2. If the Supplier considers any instruction or direction, whether in writing or otherwise amounts to a variation, but is not identified as a variation, it must within seven (7) days of receipt of the instruction or direction notify the Customer in writing. If the Supplier fails to comply with this clause and proceeds with work the subject of the instruction or direction the Supplier will have no entitlement to any adjustment to the Price as a result of that instruction or direction.
- 16.3. If the Customer directs the Supplier to vary the Services or the Goods the Supplier must promptly notify the Customer of the anticipated cost of the variation and seek to reach agreement as to the cost of the variation prior to proceeding with the variation.

17. Modern Slavery

- 17.1. In this clause modern slavery has the meaning given to it in the Modern Slavery Laws. Modern Slavery Laws means the Modern Slavery Act 2018 (Cth), Modern Slavery Act 2018 (NSW), Divisions 270 and 271 of the Criminal Code 1995 (Cth) and any other anti-slavery, human trafficking or similar laws or regulations in force in Australia, in other jurisdictions (as applicable) and international laws

- 17.2. The Supplier acknowledges that the Customer:
 - (a) is committed to providing publicly accessible information and reporting regarding:
 - (1) its structure, business, operations and supply chains;
 - (2) the due diligence and remediation processes being adopted in relation to modern slavery in its business and its supply chains;
 - (3) the parts of its business, operations and supply chains where there is a risk of modern slavery taking place, and the steps being taken to assess, address and manage that risk, including the development of policies and processes;
 - (4) the training available to employees and Suppliers regarding modern slavery; and
 - (5) the effectiveness of the actions taken; and
 - (b) has obligations under the Modern Slavery Laws.

- 17.3. The Supplier warrants and represents that it will (and ensure its Personnel will):
 - (a) comply with all Modern Slavery Laws, and not do anything, which places the Customer to be in breach of the Modern Slavery Laws;
 - (b) take all reasonable steps to ensure that it does not engage in any Modern Slavery, and there is no Modern Slavery in any of its supply chains;
 - (c) notify the Customer immediately after it becomes aware of any of the following events (each MS Breach Event):
 - (1) an actual or potential breach of Modern Slavery Laws; or
 - (2) any investigation, inquiry or enforcement proceedings initiated against the Supplier regarding any breach or alleged breach of Modern Slavery Laws; or any Modern Slavery practices in its supply chains;
 - (d) promptly after becoming aware of a MS Breach Event, take all reasonable action to address or remedy the MS Breach Event, including where relevant by addressing any practices of other entities in its supply chains;
 - (e) provide the Customer with all information and assistance reasonably requested by the Customer in relation to any Breach Event and/or the 6XSSOLHU\|V FRPSOLDQFH ZLWK WKH 0RGHUQ 6ODYHU\ /DZV DQG
 - (f) on reasonable prior written notice by the Customer, allow the Customer or D SHUVRQ QRPLQDWHG E\ WKH & XWVRPHU DW WKH & XWVRPHU\|V FRVW WR DXGLW WKH 6XSSOLHU\|V FRPSOLDQFH ZLWK WKH 0RGHUQ 6ODYHU\ /DZV DQG notice.

- 17.4. Clauses 17.5 and 17.6 will apply to, to the extent to Modern Slavery Laws apply to the Supplier.

- 17.5. Without limiting and in addition to clause 17.3 the Supplier will:
 - (a) immediately (and, if not possible to do so immediately, then as soon as possible) provide the Customer with all information, data, reports, statements and other documentation, and all other assistance and support (including assisting us in undertaking due diligence processes):
 - (1) as reasonably required to enable the Customer to comply with the Modern Slavery Laws; and/or
 - (2) to establish and demonstrate that the Supplier is complying with this clause 6,
 - (b) (Modern Slavery Information); and
 - (c) comply with all policies, procedures, guidelines, codes (including codes of conduct) or requirements which are in any way connected with the Modern Slavery Laws, as provided to the Supplier by or on behalf of the Customer at any time and from time to time (Modern Slavery Policies), including by implementing all systems, controls and procedures required under the Modern Slavery Policies.

- 17.6. The Supplier warrants and represents that:
 - (a) The Modern Slavery Information will be current, accurate and truthful and will be provided in English and in the format or formats reasonably required by the Customer;
 - (b) the Customer will be entitled, and able, to rely on the Modern Slavery Information, including for the purpose of preparing and publishing reports

- and statements in connection with the Modern Slavery Laws and/or the Modern Slavery Policies; and
- (c) the Supplier irrevocably and unconditionally consents to, and permit, the Customer (and all of its Personnel) where the Customer provides written notice to:

- (1) access, audit, use, modify and publish all Modern Slavery Information for any purpose arising from or in connection with the Modern Slavery Laws and/or the Modern Slavery Policies; and
- (2) access and use all facilities, premises, systems, software and files to enable the Customer to undertake all due diligence and audit processes to enable the Customer to comply with the Modern Slavery Laws and/or the Modern Slavery Policies.

- 17.7. For the avoidance of doubt, the Supplier is liable for the acts or omissions of the 6XSSOLHU\|V 3HUVRQQHO 7ZKLFK EUHDFK WKLW F O D
- 17.8. ,I WKH 6XSSOLHU RU 6XSSOLHU\|V 3HUVRQQHO D prejudice to any rights or remedies of the Customer under these Conditions or at law, the Customer may immediately terminate these Conditions on written notice to the Supplier.

18. Removal

- 18.1. The Customer may require the removal from the Services or Works of any person employed by the Supplier who in the opinion of the Customer is incompetent or misconducts himself or herself.

19. Statutes and Regulations

- 19.1. The Supplier at its own expense must comply with all statutes, ordinances, regulations, requirements and laws of any Authority having jurisdiction over the subject matter of this Order and must pay all fees and charges applicable. The Supplier must comply with all legislative requirements and the requirements of any Authority.

20. Occupational Health and Safety

- 20.1. Each party must as far as practicable in connection with the execution of the Services or the Works, and manufacturing and delivery of the Goods, ensure the health and safety of all persons including without limitation, members of the SXEOLF WKHDQGS SWLH U & XWVRPHU\|V 3HUVRQQHO
- 20.2. The Supplier acknowledges and agrees that it is fully familiar with and in providing the Services or in undertaking the Works, and must comply with all requirements of all applicable health and safety legislation.
- 20.3. The Supplier must at the request of the Customer and in any event prior to undertaking any work that is likely to be deemed to be of medium to high risk provide evidence in writing of health and safety policies and procedures implemented or to be implemented by or under this Order in the performance of the Works, including without limitation risk assessments and safe work method statements.
- 20.4. The Supplier must ensure that persons employed or engaged in the performance of the Services and Works are provided with safe systems of work, adequate welfare facilities and such instruction, training and supervision as is necessary to enable the Services and Works to be provided without risk to health and safety of any person.

21. Severance

If a provision of these Conditions is invalid or unenforceable, it is to be read down or severed to the extent of the invalidity or unenforceability and that fact will not affect the remaining provisions.

22. Governing law

An Order is to be interpreted according to the laws of New South Wales and each party submits to the jurisdiction of the courts of that State.