

**TERMS AND CONDITIONS****1. ACCEPTANCE**

- 1.1 **Parties:** These Terms are between Chilly Air Pty Ltd ABN 14649972681, its successors and assignees (referred to as “we” and “us”) and you, the person, organisation or entity described in the Quote (referred to as “you”). These Terms apply to all Services provided by us to you.
- 1.2 **Acceptance:** You have requested the Services set out in the Quote. You accept these Terms by:
- (a) signing and returning the Quote;
  - (b) confirming by email that you accept the Quote;
  - (c) accepting the Quote online;
  - (d) instructing us to proceed with the Services;
  - (e) paying the Deposit; or
  - (f) making part or full payment for the Services.
- 1.3 **You agree that these Terms form the agreement under which we will supply Services to you. Please read these Terms carefully.** Please contact us if you have any questions. Purchasing Services from us indicates that you have had sufficient opportunity to read these Terms and contact us if needed, that you have read, accepted and will comply with these Terms.
- 1.4 **Deposit:** If the Quote indicates that we require a Deposit and/or a first instalment of our Fee, we will not commence performing the Services until you have paid the Deposit or the first instalment of our Fee.

**2. SERVICES**

- 2.1 We agree to perform the Services with due care and skill.
- 2.2 We reserve the right to refuse any request that we deem inappropriate, unreasonable or illegal.
- 2.3 We may provide the Services to you using our employees, contractors and third party providers, and they are included in these Terms.
- 2.4 Third parties who are not our employees or our direct contractors will be your responsibility. We are not responsible for the products or services provided by those third parties.
- 2.5 Where any manuals or drawings are required in order for you to enjoy or use the Services or as a legal requirement, we will provide these to you as hard copy and or electronic form in our discretion and for no additional fee. Where you require additional copies or replacement copies we may charge additional fees for the provision of such additional or replacement manuals or drawings.

**3. PRICE, INVOICING AND PAYMENT**

- 3.1 You agree to pay us the amounts set out in our Quote, including any Deposit required. All amounts are stated in Australian dollars (AUD). All amounts exclude Australian GST (where applicable). Payment may be made by way of credit card, or other payment methods as set out in our Quote when purchasing our Services.
- 3.2 You agree to pay our Invoices by the payment date set out on the Invoice. If you do not pay by the payment date, we may cease to provide the Services to you until we receive payment.
- 3.3 We may charge interest at a rate equal to the Reserve Bank of Australia’s cash rate from time to time plus 8% per annum, calculated daily and compounding monthly, on any amounts unpaid after the payment date.
- 3.4 If invoices are unpaid after the payment date, we have the right to engage debt collection services for the collection of unpaid and undisputed debts, and the right to commence legal proceedings for any outstanding amounts owed to us.
- 3.5 We reserve the right to report bad debts to independent credit data agencies.
- 3.6 If the Quote states that the Fees and Expenses are an estimate only, you acknowledge that the final Fees and Expenses may be more or less than the estimated amounts. We will endeavour to inform you of any material variation as it becomes apparent.
- 3.7 You agree to pay the Call Out Fees.

**4. VARIATIONS**

- 4.1 The Fee and Services can be varied by written agreement between us, including by email.
- 4.2 We may at any time, in writing, inform you of the need for us to perform a Variation.
- 4.3 If you request a Variation to the Services, we have discretion as to whether we make the Variation.
- 4.4 Variations will not invalidate these Terms or be regarded as a repudiation of these Terms by us.
- 4.5 If in our reasonable option a Variation requires additional time to perform the Services, then we will amend the term of these Terms after consultation with you.
- 4.6 If we need to charge additional fee for a Variation (Additional Fee), then we will provide a written quote for the Additional Fee to you within three (3) days of notice of the Variation and prior to commencing performance of the Variation. If:
- 4.7 You accept the quote then these Terms are amended to incorporate the Variation and the Additional Fee but otherwise remains the same; or
- 4.8 You do not accept the quote we may in our discretion terminate these Terms immediately.

4.9 If we are unable to accommodate the Variation, we may request that we be paid for Services performed to date and terminate these Terms.

## 5. YOUR OBLIGATIONS AND WARRANTIES

5.1 You warrant that:

- (a) there are no legal restrictions preventing you from agreeing to these Terms;
- (b) you will cooperate with us, and provide us with information that is reasonably necessary to enable us to perform the Services as requested from time to time, in a timely manner;
- (c) the information you provide to us is true, correct and complete;
- (d) you will not infringe any third party rights in working with us and receiving the Services;
- (e) you will inform us if you have reasonable concerns relating to our provision of Services under these Terms, with the aim that the Parties will use all reasonable efforts to resolve your concerns;
- (f) you are responsible for obtaining any consents, licences and permissions from other parties necessary for the Services to be provided, at your cost, and for providing us with the necessary consents, licences and permissions;
- (g) You will ensure that, if the Services are to be performed on a property, you are authorised to occupy those premises and obtain the Services;
- (h) You will ensure that if the Services are to be performed on a property, that at all times the property is safe and that all facilities provided by you for the purposes of enabling the Services to be performed are also safe;
- (i) You will ensure that we have free and unimpeded access to the place in which the Services are to take place and that you will do all things to ensure that we are not delayed by matters within your control;
- (j) You accept that we have the right to impose stand down charges and recover additional costs incurred where work is delayed by reason not in our control and where we are unable to reasonably reschedule services;
- (k) if applicable, you hold a valid ABN which has been advised to us;
- (l) if applicable, you are registered for GST purposes; and
- (m) you will not employ, canvass, solicit, entice, induce or attempt to employ our employees or contractors.

## 6. WORK HEALTH & SAFETY

You agree and acknowledge that:

- (a) Whilst the Services are being carried out the property is considered a work site and therefore must comply with all legislation and must follow the following conditions.
- (b) An approximate age of the property must be advised to ascertain potential risk.
- (c) Disclosure of the presence of asbestos, where known by you, within the work site must be made prior to the commencement of the Services.
- (d) All work areas must be free of potential hazard to us and any of our representatives.
- (e) Any representative of ours can refuse to complete the Services if they believe that the working environment is in breach of company policy and/or legislation.

## 7. CONFIDENTIAL INFORMATION

7.1 We, including our employees and contractors, agree not to disclose your Confidential Information to any third party (other than where necessary, to third party suppliers, or as required by law); to use all reasonable endeavours to protect your Confidential Information from any unauthorised disclosure; and only to use your Confidential Information for the purpose for which it was disclosed by you, and not for any other purpose.

7.2 You, including your employees and contractors, agree not to disclose our Confidential Information to any third party; to use all reasonable endeavours to protect our Confidential Information from any unauthorised disclosure; and only to use our Confidential Information for the purpose for which it was disclosed or provided by us to you and not for any other purpose.

7.3 These obligations do not apply to Confidential Information that:

- (a) is authorised to be disclosed;
- (b) is in the public domain and/or is no longer confidential, except as a result of a breach of these Terms;
- (c) is received from a third party, except where there has been a breach of confidence; or
- (d) must be disclosed by law or by a regulatory authority including under subpoena.

7.4 This clause will survive the termination of these Terms.

## 8. FEEDBACK AND DISPUTE RESOLUTION

8.1 Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about the Services, please contact us.

- 8.2 If there is a dispute between the Parties in relation to these Terms, the Parties agree to the following dispute resolution procedure:
- (a) The complainant must tell the respondent in writing, the nature of the dispute, what outcome the complainant wants and what action the complainant thinks will settle the dispute. The Parties agree to meet in good faith to seek to resolve the dispute by agreement between them at an initial meeting.
  - (b) If the Parties cannot agree how to resolve the dispute at that initial meeting, any Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, the complainant will ask the Law Society of Queensland to appoint a mediator. The mediator will decide the time and place for mediation. The Parties must attend the mediation in good faith, to seek to resolve the dispute.
- 8.3 Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the Parties under these Terms, by law or in equity
9. **TITLE**
- 9.1 The Parties agree that ownership of the Goods shall remain with us as full legal and equitable owner and ownership shall not pass to you until:
- (a) you have paid to us all amounts owing for the particular Goods; and
  - (b) you have met all other obligations due by you to us in respect of all contracts between us and you.
- 9.2 Receipt by us of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then our ownership or rights in respect of the Goods shall continue.
- 9.3 It is further agreed that:
- (a) where practicable the Goods shall be kept separate and identifiable until we have received payment and all other obligations of you are met; and
  - (b) until such time as ownership of the Goods shall pass from us to you, we may give notice in writing to you to return the Goods to us. Upon such notice your rights you to obtain ownership or any other interest in the Goods shall cease; and
  - (c) We shall have the right of stopping the Goods in transit whether or not delivery has been made; and
  - (d) if you fail to return the Goods to us then we or our agent may enter upon and into land and premises owned, occupied or used by you or any premises, where the Goods are situated as the invitee of you and take possession of the Goods; and
  - (e) you are only a bailee of the Goods until such time as we has received payment in full for the Goods and until then you shall hold any proceeds from the sale or disposal of the Goods on trust for us; and
  - (f) you shall not deal with our money in any way which may be adverse to us; and
  - (g) you shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain our property; and
  - (h) We can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to you; and
- until such time that ownership in the Goods passes to you, if the Goods are converted into other products, the parties agree that we will be the owner of the end products.
10. **TERM AND TERMINATION**
- 10.1 Either Party may terminate these Terms without cause by providing the other Party with thirty (30) days notice, in writing.
- 10.2 Either Party may terminate these Terms if there has been a material breach of these Terms, subject to following the dispute resolution procedure.
- 10.3 We may terminate these Terms immediately, at our sole discretion, if:
- (a) you commit a non-remediable breach of these Terms;
  - (b) you commit a remediable breach of these Terms and do not remedy the breach within a reasonable time after receiving written notice of the breach;
  - (c) we consider that a request for the Services is inappropriate, improper or unlawful;
  - (d) you fail to provide us with clear or timely instructions to enable us to provide the Services;
  - (e) we consider that our working relationship has broken down including a loss of confidence and trust;
  - (f) for any other reason outside our control which has the effect of compromising our ability to perform the Services within the required timeframe; or
  - (g) you fail to pay an invoice by the due date.
- 10.4 On termination of these Terms you agree that any Deposit or payments made are not refundable to you, and you are to pay for all Services provided prior to termination, including Services which have been performed and have not yet been invoiced to you.

- 10.5 On termination of these Terms, you agree to promptly return (where possible), or delete or destroy (where not possible to return), our Confidential Information and Intellectual Property, and/or documents containing or relating to our Confidential Information and/or Intellectual Property.
- 10.6 On termination of these Terms, we agree to promptly return (where possible), or delete or destroy (where not possible to return), your Confidential Information and Intellectual Property, and/or documents containing or relating to your Confidential Information and/or Intellectual Property.
- 10.7 On completion of the Services, we will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to these Terms constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on termination of these Terms.
- 10.8 The accrued rights, obligations and remedies of the Parties are not affected by the termination of these Terms.
- 11. SECURITY AND CHARGE**
- 11.1 Despite anything to the contrary contained in these Terms or any other rights which we may have howsoever:
- (a) where you and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both you and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to us or our nominee to secure all amounts and other monetary obligations payable under these Terms. You and/or the Guarantor acknowledge and agree that we (or our nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable to us have been satisfied.
  - (b) should we elect to proceed in any manner in accordance with this clause and/or its sub-clauses, you and/or the Guarantor shall indemnify us from and against all our costs and disbursements including legal costs on a solicitor and own client basis.
  - (c) you and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint us or our nominee as you and/or the Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 12.1.
- 12. CANCELLATION**
- 12.1 We may cancel any contract to which these Terms apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to you. On giving such notice we shall repay to you any sums paid in respect of the Price. We shall not be liable for any loss or damage whatever arising from such cancellation.
- 12.2 In the event that you refuse acceptance of Goods upon delivery or otherwise repudiate the contract you shall be liable for any loss incurred by us (including, but not limited to, any loss of profits) up to the time of refusal or repudiation.
- 12.3 If an Order for Goods or the purchase of any Goods is suspended or cancelled by you (and such suspension or cancellation is accepted by us) for any reason, you must reimburse us for any costs, charges, expenses, loss of profit and damage, consequential or otherwise, that have incurred or may suffer in relation to such suspension or cancellation.
- 13. SUSPENSION OF WORKS**
- 13.1 We may, without prejudice to any of our rights under these Terms or at law, suspend our obligations to carry out the Services if you:
- (a) indicate to us that you are unable or unwilling to make any payment required under these Terms; or
  - (b) are late in making any payment to us (including the Deposit) as required by these Terms; or
  - (c) fail to comply with these Terms including failing to provide to us any information requested by us; or
  - (d) take possession of any part of the Goods without our prior written consent prior to making the final payment; or
  - (e) obstruct, interfere with or hinder the carrying out of the Services, including giving any directions to our workers or sub-contractors or failing to supply any materials or provide information required to be supplied or given to us under these Terms or refusing to consent to any reasonable or necessary variation requested by us; or
  - (f) refuse reasonable access to the property to us, our workers or sub-contractors.
- 13.2 For us to suspend the carrying out of the Services, we must immediately give written notice to you of the suspension and the reason for doing so. Any completion date will then be automatically extended by the period equivalent to the sum of the number of days the Services were suspended and the number of days of any consequential delays.
- 13.3 You will remedy the breach or breaches stated in any suspension notice given to you in accordance with clause 13.2 within seven (7) days after receiving written notice from us.
- 13.4 We will recommence the carrying out of the Services within fourteen (14) days of the breach or breaches stated in the suspension notice being remedied by us.

**14. CONSUMER LAW, LIMITATION OF LIABILITY AND DISCLAIMERS**

- 14.1 **Service Standard:** We will provide the Services with due care and skill, the Services will be fit for the purpose that we advertise, and we will supply the Services within a reasonable time.
- 14.2 **ACL:** Certain legislation including the Australian Consumer Law (**ACL**) in the *Competition and Consumer Act 2010* (Cth) and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Services by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).
- 14.3 **Statutory Rights:** Nothing in these Terms excludes your Statutory Rights as a consumer under the ACL. You agree that our liability for the Services is governed solely by the ACL and these Terms.
- 14.4 **Defects in Goods:** You must inspect the Goods on delivery and shall within five (5) days of delivery (time being of the essence) notify us of any alleged defect, shortage in quantity, damage or failure to comply with the description or quotation quoting the relevant invoice number. You shall afford us a reasonable opportunity to inspect the Goods within a reasonable time. If you shall fail to comply with these provisions the Goods shall be deemed to be free from any defect or damage. For defective Goods, which we have accepted in writing as being defective, our liability is limited in accordance with these Terms.
- 14.5 **Delay:** Where the provision of Services depends on your information or response, we have no liability for a failure to perform the Services, where it is affected by your delay in response or supply of incomplete or incorrect information.
- 14.6 **Referrals:** We may provide you with contact details of third party specialists. This is not a recommendation by us for you to seek their advice or to use their services. We make no representation or warranty about the third party advice or provision of services, and we disclaim all responsibility and liability for the third party advice or provision of services, or their failure to advise or provide services.
- 14.7 **Availability:** To the extent permitted by law, we exclude liability for:
- (a) the Services being unavailable; and
  - (b) any Claims for loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation or any loss or damage relating to business interruption or otherwise, suffered by you or made against you, arising out of or in connection with your inability to access or use the Services or the late supply of Services, even if we were expressly advised of the likelihood of such loss or damage.
- 14.8 **Disclaimers:** To the extent permitted by law we disclaim all responsibility and liability and will not be held liable for:
- (a) products or services you purchase from a third party;
  - (b) any leaks caused by our penetration through the wall or roof;
  - (c) damage caused to your property other than due to our negligent act or omission;
  - (d) Consequential loss; and
  - (e) Liquidated damages or retentions.
- 14.9 **Limitation:** To the extent permitted by law, our total liability arising out of or in connection with the Services, however arising, including under contract, tort including negligence, in equity, under statute or otherwise, is limited to us re-supplying the Services to you, or, at our option, us refunding to you the amount you have paid us for the Services to which your claim relates. Our total liability to you for all damages in connection with the Services will not exceed the price paid by you under these Terms and pursuant to the Quote for the 12 month period prior to the act which gave rise to the liability, or one hundred dollars (AUD\$100) if no such payments have been made.
- 14.10 This clause will survive the termination of these Terms.
15. **Warranties:**
- 15.1 Except for your Statutory Rights, we exclude all express and implied warranties representations and guarantees and all material and work is provided to you without warranties, representations and guarantees of any kind.
- 15.2 Subject to the conditions of warranty set out in clause 15.3 we warrant that if any defect in any workmanship of ours becomes apparent and is reported to us within Twelve (12) months of the date of delivery (time being of the essence) then we will, at our sole discretion, either remedy the workmanship or allow a credit to you.
- 15.3 The conditions applicable to the warranty given by clause 15.2 are:
- (a) The warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
  - (b) Failure on the part of you to properly maintain any Goods; or
  - (c) Failure on the part of you to follow any instructions or guidelines provided by us; or
  - (d) Any misuse, abuse, neglect of the Goods or use of any Goods otherwise than for any application specified on a quote or order form; or
  - (e) The continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or

- (f) Fair wear and tear, any accident or act of God.
- (g) The warranty shall cease, and we shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without our consent.
- (h) In respect of all claims we shall not be liable to compensate you for any delay in either remedying the workmanship or allowing a credit or in properly assessing your claim.

#### 16. EXTENSION OF TIME

16.1 **Force Majeure:** We will not be liable for any delay or failure to perform our obligations under these Terms if such delay is due to any circumstance beyond our reasonable control.

16.2 **Extension of Time:** If the progress of the Services is delayed by:

- (a) any variations under these Terms; or
- (b) any industrial action or civil commotion affecting the Services or any of the trades employed upon the Services or affecting the manufacture or supply of materials for the Services; or
- (c) the general unavailability of any materials necessary to carry out the Services; or
- (d) inclement weather or any condition as a result of inclement; or
- (e) any act, default, omission or breach of these Terms by you including, failure to provide to us with any information requested by us; or
- (f) any obstruction, interference or hindrance with the carrying out of the Services by us, our agent, or any person engaged by you to perform other work on the property; or
- (g) any delay or refusal of any authority to grant or issue any necessary permit; or
- (h) any other cause beyond our reasonable control including any act or omission by any person engaged by you relating to the Services;

THEN in any such case, we will advise you within a reasonable time of the cause and the reasonable estimated length of the delay and we will be entitled to a fair and reasonable extension of time for completion of the Services AND/OR we may, within fourteen days (14) days of becoming aware that completion of the Services will be delayed, you in writing of the delay stating the cause and the reasonable estimated length of the delay.

#### 17. INDEMNITY

17.1 You are liable for and agree to indemnify, defend and hold us harmless for and against any and all Claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:

- (a) any information provided by you that is not accurate, up to date or complete or is misleading or a misrepresentation;
- (b) your breach of these Terms;
- (c) any misuse of the Services by you, your employees, contractors or agents;
- (d) your breach of any law or third party rights; and
- (e) any injury caused by your property (or access to the property) and/or your equipment being unsafe.

17.2 You agree to co-operate with us (at your own expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of your use of the Services including but not limited to disputes, complaints, investigations or litigation that arises out of or relates to incorrect information you have given us.

17.3 This clause will survive the termination of these Terms.

#### 18. PRIVACY ACT 1988

18.1 You and/or the Guarantor/s agree for us to obtain from a credit reporting agency a credit report containing personal credit information about you and/or Guarantor/s in relation to credit provided by us.

18.2 You and/or the Guarantor/s agree that we may exchange information about you and the Guarantor/s with those credit providers either named as trade referees by you or named in a consumer credit report issued by a credit reporting agency for the following purposes:

to assess an application by you; and/or

- (a) to notify other credit providers of a default by you; and/or
- (b) to exchange information with other credit providers as to the status of this credit account, where you are in default with other credit providers; and/or
- (c) to assess the credit worthiness of you and/or the Guarantor/s.

18.3 You consent to us being given a consumer credit report to collect overdue payment on commercial credit (Section 18K (1) (h) Privacy Act 1988).

18.4 You agree that personal credit information provided may be used and retained by us for the following purposes and for other purposes as shall be agreed between us or as required by law from time to time:

- (a) provision of Goods; and/or
- (b) analysing, verifying and/or checking your credit, payment and/or status in relation to provision of Goods; and/or

- (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Customer; and/or
  - (d) enabling the daily operation of your account and/or the collection of amounts outstanding in your account in relation to the Goods.
- 18.5 We may give information about you to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about you; and/or
  - (b) allow the credit reporting agency to create or maintain a credit information file containing information about you.
19. **GENERAL**
- 19.1 **Publicity:** You consent to us stating that we provided Services to you, including but not limited to mentioning you on our website and in our promotional material.
- 19.2 **Email:** You acknowledge that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 19.3 **GST:** If and when applicable, GST payable on the Fee for the Services will be set out on our invoices. You agree to pay the GST amount at the same time as you pay the Fee.
- 19.4 **Relationship of Parties:** These Terms are not intended to create a relationship between the Parties of partnership, joint venture, or employer-employee.
- 19.5 **Assignment:** These Terms are personal to the Parties. A Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 19.6 **Severance:** If any provision (or part of it) under these Terms is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid. If a provision (or part of it) under these Terms cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part of it) must be severed from these Terms and the remaining provisions (and remaining part of the provision) of these Terms are valid and enforceable.
- 19.7 **Notices:** Any notice required or permitted to be given by either Party to the other under these Terms will be in writing addressed to the relevant address in the Quote. Any notice may be sent by standard post or email, and notices will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 19.8 **Jurisdiction & Applicable Law:** These Terms are governed by the laws of Queensland and the Commonwealth of Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Queensland.
- 19.9 **Entire Agreement:** These Terms and any document expressly referred to in them represent the entire agreement between the Parties and supersede any prior agreement, understanding or arrangement between the Parties, whether oral or in writing.
- 19.10 **Special Conditions:** The Special Conditions will prevail to the extent of any inconsistency with these Terms.
- 19.11 **Precedence:** The Quote and these Terms take precedence over any document you present to us in relation to the Services including your standard contract or terms and conditions.
20. **DEFINITIONS**
- 20.1 **Call Out Fees** (if any) are set out in the Quote.
- 20.2 **Claim/Claims** includes a claim, notice, demand, right, entitlement, action, proceeding, litigation, prosecution, arbitration, investigation, judgment, award, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute, whether indirect, incidental, special, consequential and/or incidental, and whether involving a third party or a Party to the Terms or otherwise.
- 20.3 **Confidential Information** includes confidential information about you, your credit card or payment details, and the business, structure, programs, processes, methods, operating procedures, activities, products and services, trade secrets, know how, financial, accounting, marketing and technical information, customer and supplier lists (including prospective customer and supplier information), ideas, concepts, technology, and other information of either Party whether or not such information is reduced to a tangible form or marked in writing as "confidential".
- 20.4 **Deposit** (if any) set out in the Quote.
- 20.5 **Expenses** (if any) are set out in the Quote.
- 20.6 **Fees** are set out in the Quote.

- 20.7 **Goods** shall mean goods supplied by us to you or at your direction (and, where the context so permits, shall include any supply of Services) as described on the Quote or on any invoice, quotation, work authorisation or other form provided by us to you.
- 20.8 **GST** means GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time or any replacement or other relevant legislation and regulations.
- 20.9 **Guarantor** means the Guarantor (if any) shown in the Quote.
- 20.10 **Intellectual Property** includes any and all present and future rights to intellectual and industrial property throughout the world, and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), patents, improvements, registered and unregistered trademarks, designs, any corresponding property rights under the laws of any jurisdiction, discoveries, circuit layouts, trade names, trade secrets, secret processes, know-how, concepts, ideas, information, processes, data or formulae, business names, company names or internet domain names, and any Confidential Information.
- 20.11 **Moral Rights** means the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship, as defined in the *Copyright Act 1968* (Cth).
- 20.12 **Party** and **Parties** means a party or parties to these Terms.
- 20.13 **Quote** means the Quote to which these Terms are attached.
- 20.14 **Services** means all services supplied by us to the you and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 20.15 **Special Conditions** means the special conditions, if any, detailed in these Terms and/or in the Quote.
- 20.16 **Terms** means these Terms.
- 20.17 **Variation** means amended or additional services, including but not limited to changes to the Quote or Fees or varying the Services by:
- (a) carrying out additional Services;
  - (b) omitting any part of the Services; or
  - (c) changing the scope of the Services