



## GOODS AND SERVICES SUPPLY TERMS AND CONDITIONS

### 1. DEFINITION

In these Terms:

**ACL** means the Australian Consumer Law Schedule to the *Competition and Consumer Act 2010* (Cth) and its associated regulations as amended.

**BASC** means BASC Pty Ltd, ABN 79 623 662 817, and any successor or assign.

**Customer** means the person, corporation or association acquiring the Goods and Services from BASC.

**Consumer** is as defined in the ACL and in determining whether the Customer is a consumer, the determination is made if the Customer is a consumer under these Terms and Conditions.

**Delivery** means delivery of the Goods and Services by BASC in accordance with these Terms and Conditions.

**Fee** means the fee that BASC charges the Customer for provision of the Goods and Services as set out in the Quotation.

**Goods and Services** means the goods and services supplied by BASC to the Customer as described in the Quotation.

**GST** has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and its associated Regulations as amended.

**Interest Rate** when payment is defaulted, interest will accrue on outstanding payments at a rate of 15% per month.

**Parties** means the parties to these Terms and Conditions.

**Project Specifics** means the information that the Customer must provide to BASC in relation to its requirement for the Goods and Services as set out in clause 7.

**Quotation** means the quotation of the Fee for the Goods and Services provided by BASC to the Customer.

**Tender** means the estimation of the Fee for the Goods and Services to be provided by BASC to the Client/Customer.

**Tax Invoice** has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and its associated Regulations as amended.

**Terms and Conditions** means this document, and any schedules or annexures attached to it (including any Quotation provided by BASC pursuant to clause 2.2).

### 2. GENERAL

2.1 All Goods and Services sold and supplied to the Customer by BASC are sold and supplied on the terms and conditions specified in these Terms and Conditions and the Quotation.

2.2 The Terms and Conditions prevail over any prior Terms and Conditions, arrangement or understanding, and over any terms and conditions of the Customer, whether incorporated into the Customer's order or other

instructions given to BASC in relation to the supply and sale of the Goods and Services to the Customer by BASC.

### 3. QUOTATIONS

3.1 BASC may conduct an assessment of the premises where the Customer wishes the Goods and Services to be performed and provide the Quotation.

3.2 The Quotation provided by BASC to the Customer for the proposed supply of Goods and Services is:

- (a) valid for 30 days unless otherwise agreed;
- (b) an invitation to treat only; and
- (c) only valid if in writing.

3.3 These Terms and Conditions may include any additional terms outlined in the Quotation, which are not inconsistent with the terms of these Terms and Conditions.

### 4. TENDERS

4.1 BASC will conduct an assessment from plans submitted, of the Goods and Services specified and submit a Tender.

4.2 BASC Tender is subject to an onsite check measure and confirmation of product selections once the Tender has been accepted.

4.3 In the event the costs of products and/or materials increase between the date of this tender and the date of commencement, you agree to bear the increase in those costs and BASC reserves the right to issue a revised tender accounting for those increased costs.

### 5. OFFER AND ACCEPTANCE

5.1 Immediately upon acceptance by BASC of the Quotation, these Terms and Conditions will take effect between the Customer and BASC.

5.2 The Quotation made under clause 2.2 is deemed accepted by the Customer when:

- (a) The Customer executes, in writing or by electronic means, the Quotation as executed by the Customer; or
- (b) Notification of BASC's execution of the Quotation is emailed, faxed or posted to the Customer; or
- (c) BASC otherwise provides the Customer with the Goods and Services.

5.3 The Parties expressly acknowledge and agree that once the Quotation has been accepted in accordance with clause 4.1, the terms of these Terms and Conditions apply.

5.4 BASC may amend these Terms and Conditions by written notice to the Customer at any time. Any variations or amendments will apply to orders placed after the notice date.

5.5 Any order for Goods and Services by a Customer cannot be cancelled or amended once the quotation has been

accepted pursuant to clause 4.1, unless BASC has provided its prior written consent.

## **6. FEE AND PAYMENT**

- 6.1 The amount of the Fee due and payable by the Customer for the Goods and Services will be the amount specified in the Quotation.
- 6.2 Unless otherwise specified in the Quotation, all prices quoted by BASC are inclusive of GST.
- 6.3 In consideration for the Fee, BASC will provide the Goods and Services to the Customer.
- 6.4 Unless otherwise agreed in writing:
- (a) BASC may, at its sole discretion, require the payment of a deposit for the Goods and Services by the Customer. The Customer acknowledges and agrees any such deposit is non-refundable;
  - (b) BASC may, at its sole discretion, require the payment of milestone or progress payments for the Goods and Services by the Customer;
  - (c) subject to clause 5.6, full payment must be made by the Customer within seven (7) days of the date of BASC's Tax Invoice or as per any terms set out on a Tax Invoice; and
  - (d) BASC may (at its sole discretion) require payment by the Customer in full prior to delivery of the Goods and Services.
- 6.5 In the event the Project Specifics vary in any way following execution of the Quotation, the Fee may be amended at BASC's sole discretion immediately upon giving the Customer written notice of a change to the Fee.
- 6.6 Payment terms for Tax Invoices issued to the Customer may be amended at BASC's sole discretion immediately upon giving the Customer written notice.
- 6.7 Payment by cheque is not deemed made until the proceeds of the cheque have cleared.
- 6.8 The time for payment is of the essence.

## **7. PAYMENT DEFAULT**

- 7.1 If the Customer defaults in payment of any amount payable to BASC, then all money which would become payable by the Customer to BASC becomes immediately due and payable. BASC may, without prejudice to any of its other accrued or contingent right:
- (a) charge the Customer interest on any sum due at the Interest Rate;
  - (b) charge the Customer for, and the Customer must indemnify BASC from, all costs and expenses (including without limitation all bank charges and legal costs and expenses) incurred by the default or actions to enforce compliance with these Terms and Conditions;
  - (c) cease or suspend supply of any further Goods and Services to the Customer;
  - (d) terminate these Terms and Conditions with the Customer.
- 7.2 Clauses 7.1(c) and 7.1(d) may also be relied upon, at BASC's option where the Customer (whether a natural person or corporation) commits any act of insolvency, however defined or described.

## **8. PROJECT SPECIFICS**

- 8.1 The Customer must provide BASC with its specific requirements, if any, in relation to the Goods and Services required. The Customer must provide BASC with information in accordance with this clause 7.1 within seven (7) days of receipt of a request from BASC.
- 8.2 The Customer must provide BASC with suitable access to the premises to allow installation of the Goods and provision of the Services.
- 8.3 In the event the Customer does not provide BASC with information and access requested in accordance with clauses 7.1 and 7.2, the Customer acknowledges and agrees that BASC may provide and deliver the Goods and Services to the Customer without that information. The Customer acknowledges and agrees it will have no right to make any claim, demand, action, and/or commence proceedings against BASC in relation to the Goods and Services provided, if it has failed to provide BASC with information in accordance with clauses 7.1 and 7.2.
- 8.4 The Customer acknowledges and agrees that it will remove any valuables which could be damaged during the provision of the Goods and Services by BASC and any obstructions which may interfere with any such provision.

## **9. PASSING OF PROPERTY**

- 9.1 Until BASC receives full payment in cleared funds for all Goods and Services provided by it to the Customer, as well as all other amounts owing to BASC by the Customer:
- (a) title and property in all Goods remain vested in BASC and do not pass to the Customer;
  - (b) the Customer must hold the Goods as fiduciary bailee and agent for BASC;
  - (c) the Customer must keep the Goods separate from its goods and maintain BASC's labelling and packaging (if applicable);
  - (d) BASC may without notice, enter any premises where it suspects the Goods are and remove them (notwithstanding that they may have been attached to other goods not the property of BASC) and for this purpose the Customer irrevocably licenses BASC to enter such premises and also indemnifies BASC from and against all costs, claims, demands or actions by any party arising from such action.

## **10. RISK AND INSURANCE**

- 10.1 The Customer assumes all risk and liability for loss, damage or injury to the Customer or third parties arising out of the use of the Goods and Services.
- 10.2 The Goods and Services are provided to the Customer on the basis that the Customer has obtained all necessary licenses or permits under all relevant laws and regulations in relation to the Goods and Services.

## **11. DELIVERY OF GOODS AND SERVICES**

- 11.1 Any estimated dates for Delivery of the Goods and Services stated by BASC is an estimate only and not a contractual commitment.
- 11.2 BASC will use its reasonable endeavours to meet any

estimated dates for Delivery of the Services but will not be liable for any loss or damage suffered by the Customer or any third party for failure to meet any estimated delivery date.

## **12. WARRANTY AND LIABILITY**

- 12.1 Except as otherwise required by law or as specifically stated in these Terms and Conditions or any express warranty provided in relation to the Goods and Services, these Terms and Conditions do not include any other term, condition or warranty in respect of the quality, merchantability, acceptability, fitness for purpose, condition, description, assembly, manufacture, design or performance of the Services.
- 12.2 To the extent permitted by law, any warranty provided by BASC in relation to the Goods will not apply where the Goods have been:
- (a) subject to an accident, negligent use, tampering, improper handling, use, operation or storage, or due to any other causes outside of BASC's reasonable control;
  - (b) altered or modified in any way or for any reasons without the written approval of BASC; or
  - (c) not used, maintained or serviced in accordance with standard practice or BASC's instructions and recommendations.
- 12.3 BASC is not liable for any losses or expenses suffered by the Customer or any third party, howsoever caused, except to the extent of any liability imposed by the ACL.

## **13. INDEMNITY**

- 13.1 The Customer agrees to indemnify and hold harmless BASC from any and all damages, claims, losses, demands, liabilities (including vicarious liability), injuries, suits, actions, judgments, costs and expense arising out of or in any way connected with the Customer's breach of these Terms and Conditions.
- 13.2 The covenant contained in clause 12.1 shall remain in full force and effect after the expiry or termination of these Terms and Conditions and shall not be deemed extinguished or merged.

## **14. FORCE MAJEURE**

- 14.1 BASC is not liable for events beyond its reasonable control including industrial disputes, strikes, lockouts,

accident, breakdown, import or export restrictions, acts of God, acts or threats or terrorism or war. If an event of force majeure occurs, BASC may suspend or terminate these Terms and Conditions.

## **15. GUARANTEE**

- 15.1 If the Customer defaults in payment of any amount payable to BASC or is otherwise in default of these Terms and Conditions, and the Customer is not a natural person, the Guarantor guarantees payment of the outstanding money and will indemnify BASC against any cost or loss whatsoever arising as a result of the default by the Customer in performing its obligations under these Terms and Conditions for whatever reason. BASC may seek to recover any loss from the Guarantor before seeking recovery from the Customer, and any settlement or compromise with the Customer will not release the Guarantor from the obligation to pay any balance that may be owing to BASC. This guarantee is binding on the Guarantor, their executors, administrators and assigns and the benefit of the guarantee is available to any assignee of the benefit of these Terms and Conditions by BASC.

## **16. MISCELLANEOUS**

- 16.1 The law of the Australian Capital Territory governs the Parties.
- 16.2 If a clause is unenforceable it must be read down to be enforceable or, if it cannot be read down, the term must be severed from these Terms and Conditions, without affecting the enforceability of the remaining terms.
- 16.3 A notice must be in writing and handed personally or sent by email, facsimile or prepaid mail to the last known address of the addressee. Notices sent by pre-paid post are deemed to be received upon posting. Notices sent by facsimile or email are deemed received on confirmation of successful transmission.
- 16.4 Nothing in these Terms and Conditions should be construed as creating any form of partnership, however defined by statute or at common law, or relationship of agent, employee, joint venturer or otherwise as between the parties.
- 16.5 These Terms and Conditions constitute the entire terms and conditions of the Parties on the subject matter.