



Since 1991

**SALMON PLUMBING
& HOT WATER**

General and Trading Terms

1. Contract documents

- 1.1. These terms and conditions operate and apply as follows:
 - (a) If the value of the Works we are engaged to carry out is below the QBCC Contract Amount, then these terms and conditions operate and apply between the Client and Salmon Plumbing (as **Contractor**) in relation to all Works;
 - (b) If the value of the Works we are engaged to carry out is above the QBCC Contract Amount, then these terms and conditions form part of the Contract between the Client and Salmon Plumbing, as required by the QBCC Act, for all contracted Works.
- 1.2. Where applicable, the Contract for the Work consists of these General Terms, the Quotation and Schedule to Contract for Domestic Works (Schedule) together with any plans, drawings and specifications which might apply to the Work and be referred to in the Schedule.
- 1.3. These terms and conditions will apply to all Works performed for which the Client authorises and engages Salmon Plumbing, unless expressly amended and excluded in writing and will be read and construed to give full effect in the event of any Dispute concerning the Works.

2. Deposit

- 2.1. Where applicable prior to commencement of the Work, the Client must pay the Deposit set out at **Item 6** in the Schedule to the Contractor upon signing the Schedule.

3. Contract formation, price and Works

- 3.1. Where a detailed *Quote for the Works* **has been given** by the Contractor to the Client, the Contract Price (exclusive of GST) (**Item 13** in the Schedule) is made up of the following:
 - (a) Contract Fixed Price Component (**Item 8** in the Schedule) adjusted as agreed;
 - (b) The amount/s allowed for any Prime Cost Items (**Item 9** in the Schedule); and
 - (c) The amount/s allowed for any Provisional Sums (**Item 10** in the Schedule) - plus GST.
- 3.2. Where a detailed *Quote for the Works* **has not been given** by the Contractor to the Client, the Contract Price (exclusive of GST) (**Item 13** in the Schedule) is made up of the following:
 - (a) The published rates for all Works as notified to the Client upon engagement; or
 - (b) Contract Estimated Price (**Item 7** in the Schedule) as adjusted under these terms;
 - (c) The amount/s allowed for any Prime Cost Items (**Item 9** in the Schedule); and
 - (d) The amount/s allowed for any Provisional Sums (**Item 10** in the Schedule) - plus GST.
- 3.3. The parties acknowledge and agree that, for the purposes of section 26(2) of Schedule 1B to the QBCC Act (where applicable), the only information which was reasonably available when the Contract was entered into was that information set out in **Item 11** of the Schedule.
- 3.4. If the actual cost of a Prime Cost Item or that part of the Works which is included as a Provisional Sum exceeds the amount set out in the Schedule, the Contract Price will be increased by the difference between the actual cost and the amount set out in the Schedule plus an extra amount for the Contractor's Margin on Prime Cost Items.
- 3.5. The Contract Price may also increase if the Contractor encounters Abnormal Ground Conditions, there is a Variation to the Works or where a Quote for the Works has not been given by the Contractor to the Client.
- 3.6. The Schedule or Quote constitutes an offer to carry out the Works for the specified amount. Unless the Contractor otherwise agrees in writing, no contract will come into existence and the Contractor is not bound to undertake the Works for the price set out in the Schedule unless the Client signs and returns the Schedule to the Contractor within 7 days of having received it.
- 3.7. The Contractor is not required to carry out the Works or supply any materials set out at **Item 5** of the Schedule unless there is a valid Variation requiring the Contractor to do so.

- 3.8. By authorising commencement and granting access to the Site, and/or by signing the Schedule and returning it (or a copy) to the Contractor, the Client accepts the offer and engages the Contractor to complete the Works in accordance with the terms of this Contract.
- 3.9. All pricing and amounts otherwise payable under this Contract, including in relation to any Variation, have been or will be calculated on a GST exclusive basis unless stated to the contrary and the Client will pay any GST applicable to any supply (as defined in the GST Legislation) in addition to paying any such price or amount payable with respect to any supply.

4. Statutory Warranties

- 4.1. To the extent required by Schedule 1B of the QBCC Act for domestic plumbing works, the Contractor warrants that:
 - (a) The Works will be carried out in an appropriate and skilful way and with reasonable care and skill and reasonable diligence;
 - (b) All materials supplied will be of good quality and suitable for the purpose for which they are used having regard to the Relevant Criteria, and that all materials used will be new unless this Contract expressly provides otherwise;
 - (c) The Works be carried out in accordance with all Laws;
 - (d) The Works will be carried out in accordance with the Plans and Specifications (if any);
 - (e) Any estimated Provisional Sum or Prime Cost Item included in the Contract has been calculated with reasonable care and skill, having regard to all the information reasonably available when the Contract is entered into (including information about the nature and location of the Site).

5. Plans and Specifications and Approvals

- 5.1. Where applicable, the Plans and Specifications for the Works are set out in **Item 4** of the Schedule.
- 5.2. The Plans and Specifications may only be amended:
 - (a) By the express, written agreement of the parties; or
 - (b) By the Contractor, in order to resolve any buildability or serviceability issues which the Contractor may encounter during the carrying out of the Works; or
 - (c) In order to ensure that the Works comply with all Laws.
- 5.3. The party supplying the Plans and Specifications warrants that it has prepared them with reasonable skill and care and that the use of the Plans and Specifications for the Works will not infringe any rights of any third party.
- 5.4. If the Contractor prepared the Plans and Specifications (or any part/s of them) then the Contractor does not grant the Client any right or licence to use the Plans and Specifications (or any part), as the Contractor may have prepared. Such a right or licence will not be granted until the Client has paid the whole Contract Sum to the Contractor.
- 5.5. If the Plans and Specifications are amended for a reason set out in 5.2 of this Contract, then the Contractor may claim a Variation.
- 5.6. Other than any permissions, permits, consents or approvals required to be obtained in relation to the Works pursuant to the *Planning Act 2016* (Qld), the Contractor will take all reasonable steps to obtain all permissions, permits, consents or approvals (**Approval**) for the Works.
- 5.7. The Client will obtain all permissions, permits, consents or approvals required to be obtained in relation to the Works pursuant to the *Planning Act 2016* (Qld) (**Development Approval**).
- 5.8. Unless specifically provided in the Quote or Schedule, the Works do not include the provision of temporary sewage facilities or water; the provision of any special equipment; removal of or any dealing with asbestos or other toxic or contaminating substance; fire protection of any penetrations; cosmetic remediation of the Site (for example but not limited to turf) or any survey.
- 5.9. Unless specifically provided in the Quote or Schedule, the Contract Price does not include the costs of or any allowance for any security or deposit payable in respect of the Works (for example, any payment required to be made to any local authority or utility) and the Client will be responsible for and pay any such costs immediately upon demand by the Contractor.
- 5.10. In the event any Approval will require additional work, the Contractor will give proper notice to the Client and may claim a Variation for any such additional work.
- 5.11. If any Approval or Development Approval has not been obtained within a reasonable time (in the sole discretion of the Contractor) and in any event within 90 days of having been first sought, then the Contractor may suspend the carrying out of the Works by written notice to the Client.
- 5.12. If the Works remain suspended pursuant to clause 5.11 for more than 14 days, the Contractor may terminate the Contract by written notice to the Client.

5.13. If this Contract is terminated pursuant clause 5.12, the Contractor will be entitled to be paid (and the Client will pay on demand) the Contractor's costs and expenses incurred in carrying out the Works until the date of Contract comes to an end plus an amount equal to 20% of the balance of the Contract Price for that part of the Works which is not to be carried out (as compensation for loss of the profit the Contractor otherwise could have expected to make). Subject to this clause 5.13, the parties will have no further liability to each other as a result of the Contractor suspending the Works pursuant to clause 5.11 and/or the Contract being terminated pursuant to clause 5.12. This right is in addition to the termination rights in clause 17.

6. Access to Site

- 6.1. The Client must allow the Contractor such access to the Site as the Contractor (in the Contractor's opinion) reasonably requires for the purpose of establishing what is required to effect the Works and prepare the Site prior to the Commencement Date.
- 6.2. Any estimated cost of the Works is based on a continuous and linear works program and if the Client or events, people or circumstances beyond the immediate control of the Contractor cause the Works to be delayed or the Contractor's access to the Site to be inhibited, the Contractor may suspend the carrying out of the Works.
- 6.3. Following any delay of the nature referred to in clause 6.2, any loss or damage incurred by the Contractor arising out of the delay, together with an allowance of up to 20% for the Contractor's overheads and profit margin, will be added to the Contract Price and may be included in the next Progress Claim.
- 6.4. Each party must immediately notify the other if and when it becomes aware of any actual, threatened or likely breach of any applicable occupational health and safety Law, or:
- (a) Any situation in which its employees, agents or subcontractors or any other person on the Site may be exposed to risks to their health or safety in relation to the performance of the Works;
 - (b) Any accidents or injuries whilst performing the Works; and
 - (c) Any incidents that might cause injury to any person on the Site including in particular its employees, agents or other subcontractors whilst performing the Works.
- 6.5. Where notified to the Client by the Contractor in accordance with any Quotation or letter of engagement or similar document, provision of access to the Site is evidence of acceptance of these terms and conditions in respect of the Works for which the Contractor is engaged.

7. Abnormal Ground Conditions

- 7.1. The Quoted Amount or the Contract Fixed Price set out at **Item 8** and the Contract Price and the Total Contract Price set out at **Item 13** and **Item 14** respectively of the Schedule do not include any allowance for or additional cost associated with Abnormal Ground Conditions.
- 7.2. In the event of Abnormal Ground Conditions, an additional charge is payable by the Client to be calculated as provided in **Item 15** of the Schedule and the Contractor will also be entitled to claim an extension of time in relation to any consequential delay.

8. Existing services

- 8.1. The Client warrants to the Contractor that the existing services at the Site and those connected to it are in good order and comply with current Laws. The reinstatement of any services cut or damaged by the Contractor during the course of the Works which was reasonably identifiable at the time of submission of the quotation, is included in the Contract Price but if there is any upgrading or renewal of existing services required for any reason not so reasonably anticipated and due to no fault of the Contractor, the additional costs thereof together with an allowance of up to 20% for the Contractor's overheads and profit margin, will be added to the Contract Price and may be included in the next Progress Claim.

9. Client's materials

- 9.1. All fixtures, fittings or materials of the Client on the Site (whether on the Site on the Commencement Date or brought on for the Works) will be stored, handled and installed at the Client's sole risk provided that the Contractor will take reasonable care in dealing with them.

10. Payment obligations

- 10.1. The Client must pay the Contractor the Quoted Amount or the Contract Price calculated and adjusted as provided by this Contract as follows:
- (a) By paying the Deposit (where applicable) upon execution of the Contract;
 - (b) By payment in full at the completion of the Works on Site; or
 - (c) By paying each Progress Claim and the Contractor's claim for payment upon Practical Completion within 5 days of receiving each claim. Where Progress Claims are applicable, each claim will be calculated by reference to the percentage of the Contract Price applicable to the relevant stage of completion of the Works as set out in the Schedule, adjusted to take into account any adjustment for any Prime Costs Item and any Provisional Sum Allowance and the costs of any Variation not previously claimed and paid.

- 10.2. Unless contrary to the QBCC Act, the Client will pay the Contractor for a Prime Cost Item in accordance with the terms of this Contract, upon delivery of the Prime Cost Item.
- 10.3. If the Client does not pay any amount due to the Contractor on completion of the Works or as required by any Progress Claim, the Contractor will be entitled to be paid interest on the overdue amounts at the rate provided in section 67P of the QBCC Act, or at such other rate as the Contractor notifies to the Client in the Schedule.
- 10.4. If the Contractor carries out any part of the Works carries out work for which it is required to hold a particular type of licence and the Contractor does not hold that type of license or any part of the Works is beyond the scope of the Contractor's licence (**Additional Work**), the Parties agree that the value of the Additional Work is Nil and that the entire Contract Price relates solely to those parts of the Works for which the Contractor is licensed (where a licence is required) or for which the Contractor does not require a licence.
- 10.5. If the Client fails to make any payment when due to the Contractor, without prejudice to any other rights, the Contractor may, by written notice to the Client, suspend the Works until payment is made (together with any interest payable due to the late payment) and cannot be required to resume the Works until 3 Business Days after full payment has been received.
- 10.6. The Guarantor identified in the Schedule hereby fully and unconditionally guarantees the performance of the obligations of the Client including payment for the Works under this Contract and indemnifies the Contractor against any loss or damage the Contractor might suffer due to the Client failing to make any payment for the Works, performing any of its obligations and proper discharge of any of its liabilities under this Contract.
- 10.7. The Guarantor acknowledges that the Client has engaged the Contractor to perform the Works and the Guarantor has read, understands and agrees to be bound by these terms and conditions, including the Guarantee, and that proper consideration has been given by the Contractor in respect of the obligations arising hereunder.

11. Variations

- 11.1. The scope of the Works may be varied from time to time subject to the details of any proposed variation and any additional payment which might be sought in relation thereto first being provided in writing by the Contractor to the Client in accordance with Schedule 1B of the QBCC Act (**Variation Notice**).
- 11.2. Where required by an Act or Regulation to be in writing, each Variation Notice will:
- (a) be readily legible;
 - (b) adequately describe the variation;
 - (c) set out the date of the request of the variation;
 - (d) set out the Contractor's reasonable estimate of any delay which might result from the variation;
 - (e) state the change to the Contract Price brought about as a consequence of the variation or the method for calculating the change to the Contract Price due to the variation;
 - (f) state when any increase in the Contract Price is to be paid or in the event the variation results in a decrease, state when the decrease is to be accounted for.
- 11.3. The Contractor must give the Client a signed copy of the Variation Notice within 5 Business Days after the variation is agreed and before the Variation Works are commenced.
- 11.4. The Client must sign the Variation Notice within two (2) Business Days of receiving same and if the Client does not do so, the Contractor may, by written notice to the Client, suspend the carrying out of the Works.
- 11.5. The Contractor will be under no obligation to accept or comply with any oral direction unless and until it is confirmed in writing and the Client otherwise complies with these terms.
- 11.6. The failure by the Contractor to strictly comply with any of the obligations contained in this clause 11 will not invalidate any claim for a Variation, but may entitle the Client (subject to the Limitation Cap) to claim damages.
- 11.7. Regardless of whether the Client agrees to a Variation, the Contractor is nevertheless entitled to payment for any Variation which is reasonably necessary because of circumstances that could not have been reasonably foreseen by the Contractor when the Contract was entered into such as, by way of example only and without limitation, Abnormal Ground Conditions, a latent condition or a requirement of a local or other authority or utility.

12. Time

- 12.1. The Contractor must, unless entitled to an extension of time pursuant to this clause 12, commence carrying out the Works on the Commencement Date, and complete the Works within a reasonable time and on or before any specified or agreed Date for Practical Completion.
- 12.2. Despite any other clause of the Contract, the Client will have no entitlement to claim general or liquidated damages from the Contractor because the Contractor fails to comply with its obligations pursuant to clause 12.1.
- 12.3. The Contractor will, be entitled to an extension of time for commencing or carrying out the Works (including reaching Practical Completion) if the Contractor is or will be delayed in commencing, undertaking or completing the Works by the Date for Practical Completion due to a Qualifying Cause of Delay.

12.4. The Client irrevocably appoints the Contractor as the Client's attorney for the purposes of approving claims for extensions of time in accordance with section 42(1)(d) of Schedule 1B to the QBCC Act and the parties agree that the Contractor may execute any documents relating to any extension of time in the name of the Client and the Client agrees that the Contractor may do so even if the Client disputes the Contractor's entitlement to a reasonable extension of time.

12.5. A Qualifying Cause of Delay means:

- (a) any act, default or omission of the Client, its consultants, agents or other contractors (not being employed by the Contractor);
- (b) any change to the Plans and Specifications;
- (c) any delay in obtaining any permissions, permits, consents or approvals required to be obtained in relation to the Works pursuant to the *Planning Act 2016* (Qld);
- (d) a suspension of the Works in accordance with clause 5.10 of the Contract;
- (e) a suspension of the Works pursuant to clause 6.2 of this Contract;
- (f) a suspension of the Works pursuant to clause 10.4 of this Contract;
- (g) Abnormal Ground Conditions or other restriction connected with the Site;
- (h) a Variation;
- (i) a Health Emergency;
- (j) a suspension of the Works pursuant to clause 11.4 of this Contract;
- (k) a suspension of the Works pursuant to clause 17.3(a)(i) of this Contract;
- (l) inclement weather, regardless of whether it occurs prior to or after the Date for Practical Completion;
- (m) changes to any Laws, Approvals, Development Approvals;
- (n) industrial conditions;
- (o) actions taken or failed to be taken by a municipal, statutory or public authority or utility;
- (p) any other matter outside of the immediate control of the Contractor; and
- (q) any right to claim an extension of time otherwise provided in this Contract.

12.6. The failure by the Contractor to strictly comply with any of the obligations contained in this clause 12 will not invalidate any claim for an extension of time, but may entitle the Client (subject to the Limitation Cap) to damages.

12.7. The Contractor may suspend the performance of the Works if the Client is in substantial breach of the Contract and if the Client has not remedied the substantial breach despite service of a notice pursuant to this Contract by the Contractor upon the client.

12.8. Suspension of the Works under this clause does not waive or effect any termination rights under clause 17, or other rights of the Contractor under these terms.

13. Insurance

13.1. The Contractor must, at its cost, have in place during the course of the contract all insurances required under the *Workers' Compensation and Rehabilitation Act 2003* and the QBCC Act and contract works insurance for the full insurable value of the Works together with public liability insurance for not less than \$5,000,000 per claim.

13.2. If the Queensland Home Warranty Scheme applies to the Works, the Client must pay the Contractor the premium for insurance under that scheme and the Contractor must as soon as reasonably practicable thereafter and, before commencing the Works, pay it to the QBCC.

13.3. The Client must, at its cost, have in place under the Contract comprehensive insurance for the value of any building in which the Works or any part thereof are to be carried out (including suitable third party and contractor liability cover of at least \$5,000,000 per claim) and must upon request of the Contractor provide evidence of such insurance to the Contractor.

14. Title to materials and equipment

14.1. Subject to clause 14.4, the Client has no right or interest in any materials or equipment brought onto the Site by the Contractor or any agent or supplier thereof (**Materials**) and is not entitled to claim any lien over or Security Interest in any such Materials nor deliver any of it to any third party or otherwise deal with such Materials except with the written authority of the Contractor.

14.2. In the event the Client is in possession of any Materials it will hold the Materials as bailee for the Contractor and owe the duties and liabilities of a bailee to the Contractor.

14.3. To the extent any action or transaction under this Contract creates or the Contractor claims a Security Interest over any Materials or other property whether of the Contractor or another person on the Site or elsewhere pursuant to the

Personal Property Securities Act 2009 (Cth) (PPSA), except to the extent prohibited by Law the Client will do anything requested of it by the Contractor to enable the Contractor to register such interest, will provide all reasonable assistance to enable such registration and to ensure the Contractor's Security Interest is perfected and otherwise enforceable under the PPSA. The Client agrees that if Chapter 4 of the PPSA applies to the enforcement of any such Security Interest, to the maximum extent permitted by law, sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 132(3), 132(4), 134(1), 135, 142 and 143 of the PPSA, will not apply to the enforcement of that Security Interest and the Client waives its right to receive any notice under the PPSA.

14.4. Title in the Materials will only pass to the Client after all moneys payable or which might become payable under this Contract to the Contractor have been paid and received in full.

15. Dispute resolution

15.1. If a difference or dispute between the parties arises in connection with the Works or under this Contract (**Dispute**), then either party may give the other a written notice of dispute adequately identifying and providing details of the Dispute, and a reasonable proposal for resolution.

15.2. Notwithstanding the existence of a Dispute, the parties will continue to perform the Contract subject to any express right the Contractor might have under the Contract to suspend the Works or terminate this Contract.

15.3. Within 10 Business Days after receiving a notice of Dispute, the parties will meet at least once to resolve the Dispute. At this meeting each party will be represented by a person having authority to agree to such resolution, and act genuinely and in good faith to resolve the Dispute.

15.4. If the Dispute is not resolved by the parties within 10 Business Days, either party may commence proceedings for the resolution of the dispute, and the payment of any amounts or claims due.

15.5. Nothing in this clause will prevent a party from commencing proceedings to enforce a right to payment or to obtain urgent relief, injunctive relief or declaratory relief.

16. Notices

16.1. Any notice, demand, consent or other communication to be given under this Contract must be given in writing to the recipient at the authorised address (including by email) in the Schedule.

16.2. Any notice, demand, consent or other communication to be given under this Contract will be properly given if given in writing and if sent by email to the authorised address, at the time shown in the delivery confirmation report generated by the sender's email system.

17. Default and termination

17.1. If either party commits a breach of this Contract, the party not in breach may give the breaching party a notice requiring it to rectify the breach. Such notice must specify:

- (a) details of the breach; and
- (b) a time by which the breach must be rectified (at least five (5) Business Days after the date of the notice).

17.2. For the purposes of clause 17.1, the failure by the Client to pay an amount to the Contractor by the due date for payment is a substantial breach of the Contract, enabling termination.

17.3. If the breach is not rectified within the time specified in the notice, the party not in breach may:

- (a) if the party who is not in breach is the Contractor, by written notice to the Client:
 - (i) suspend the carrying out of the Works; or
 - (ii) terminate this Contract;
- (b) if the party who is not in breach is the Client, by written notice to the Contractor, terminate this Contract.

17.4. Either party may immediately terminate this Contract by notice to the other party due to any Insolvency Event.

17.5. The Contractor may terminate this Contract by notice in writing, being immediately effective, where the Client or the Client's agents or other contractors commits any serious or persistent breach of any of the provisions of this Contract.

17.6. If this Contract is terminated under this clause the Contractor may, after ceasing the Works, submit a progress claim showing the value of all Works supplied up to the date of termination and the cost of all Works (including all Materials) ordered for the performance of its obligations under this Contract. The full amount of that progress claim will be immediately payable as a debt by the Client to the Contractor.

18. General provisions

18.1. This Contract is governed by and will be construed in accordance with the laws of Queensland and the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of Queensland.

18.2. If any provision of this Contract is prohibited or unenforceable in Queensland, in that jurisdiction it will be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of the Contract or enforcement of these terms or recovery of any amounts claimed or owing to the Contractor.

- 18.3. No act, omission or delay by a party will constitute a waiver of a right under this Contract.
- 18.4. This Contract may only be varied by agreement in writing or by way of a Variation Notice.
- 18.5. Where the Client is not a resident owner for the purposes of section 43 of schedule 1B to the QBCC Act, the Client charges all of its property (including property acquired after the execution of this Contract) with the due and punctual payment of all amounts owed, or which may become owing, to the Contractor pursuant to the terms of this Contract.
- 18.6. In support of the charge referred to in this clause 18, the Client agrees that the Contractor may lodge a consent caveat over the Site and the Client agrees that the Contractor may execute any and all documents as the attorney of the Client for the purposes of lodging any documents relating to such a caveat.
- 18.7. Each party represents and warrants to the other that it has entered into this Contract voluntarily relying upon their own information, investigation and legal and financial advice and that they are not relying on any statement or representation made by the other party or any person representing or purporting to represent the other party.
- 18.8. Under no circumstances will:
- (a) The Contractor be liable to the Client for any Consequential Loss; and
 - (b) The Contractor's maximum and overall liability to the Client exceed the Limitation Cap.
- 18.9. If, during the course of the Works, any discrepancy, inconsistency or ambiguity arises within the Plans or Specifications, the Contractor must give the Client's Representative written notice of it. The Client's Representative must (upon receiving such notice or otherwise on becoming aware of a discrepancy, inconsistency or ambiguity) direct the Contractor as to the interpretation and construction to be followed. If the direction caused the Contractor to incur more costs than would otherwise have been the case, then those additional costs will be added to the Contract Sum.
- 18.10. **Privacy and Credit**
- (a) The Client acknowledges that the Contractor may store or provide to third parties personal and confidential information, including to overseas recipients who are not bound to observe the Privacy Act (1988) or similar. This includes providing personal and confidential information in relation to the Client to a credit rating agency, credit advisory service or similar (Credit Agency) for any purpose associated with this Contract or any other transaction which the parties have entered into or which the Contractor is contemplating entering into with the Client, including the Contractor obtaining information about and/or for assessing the financial standing or circumstances of the Client or reporting to a Credit Agency any failure by the Client to pay the Contractor in accordance with the terms of this Contract or under any other contract and as set out in the Contractor's Credit Management and Reporting Policy.
 - (b) The Client acknowledges that it has read and understands the Contractor's Credit Management and Reporting Policy and consents to the Contractor doing so and releases, discharges and holds the Contractor harmless and indemnified against or in respect of any claims, actions or liability arising from the storage of or provision to third parties of personal and confidential information together with any costs on an indemnity basis arising from any consequence of reporting any credit default in accordance with the Contractor's Credit Management and Reporting Policy.

19. Definitions and interpretation

- 19.1. Unless the context requires otherwise, words and expressions used in this Contract mean:
- (a) **Abnormal Ground Conditions** means unexpected physical conditions on or about the Site (including the physical condition or performance of any existing works, structures or improvements on the Site) and its near surrounds, including artificial things but excluding weather conditions, which differ materially from the physical conditions reasonably anticipated by a competent Contractor as that the Commencement Date and specifically includes ground conditions which are encountered in the course of the carrying out of the Works which necessitate the removal by mechanical means or blasting of rock or other obstructions (including hard rock) or objects or which otherwise impede or delay construction of the Works or any part thereof including but without limitation, tree roots, mine shafts, submerged foreign objects or contamination, undisclosed footings or utilities, water courses or other unusual or abnormal ground conditions, having regard to the location of the Works;
 - (b) **Additional Charge Rates** means the rates per linear metre, per cubic metre or per hour, or other specified additional unit charge, set out at **Item 15** the Schedule or as otherwise notified to the Client in the Contractors' rates schedule;
 - (c) **Approval** has the meaning given to that term in clause 5.6 of these General Terms;
 - (d) **Business Day** means a day that is not a Saturday, Sunday or public holiday at the address of the Contractor nor 22 to 24 December, 27 to 31 December in any year;
 - (e) **Commencement Date** means the date set out at **Item 18** of the Schedule or as otherwise may be agreed or adjusted in accordance with clause 12 or otherwise under this Contract;

- (f) **Consequential Loss** means any special or indirect loss or damage and any loss or profits, loss or production, loss or revenue, loss of use, loss of contract, loss of goodwill, loss of opportunity or wasted overheads, or other unforeseen expense to the Contractor whatsoever, whether direct or indirect;
- (g) **Contract** means the agreement between the Contractor and Client pursuant to which the Contractor will effect the Works in accordance with these General Terms and the Schedule together with any plans, drawings or specifications attached to the Schedule;
- (h) **Contract Estimated Price** means the estimated cost of the Works provided by the Contractor to the Client (if any) or as set out in the Contractors' current rates schedule;
- (i) **Contract Fixed Price Component** means, where a Quote has been given, the amount set out at **Item 8** of the Schedule;
- (j) **Contract Price** is exclusive of any applicable GST and means:
 - (i) Where a Quote has been given for the Works by the Contractor to the Client, the amount calculated in accordance with Clause 3.1, as adjusted pursuant to this Contract; and
 - (ii) Where a Quote has not been given for the Works by the Contractor to the Client, the amount calculated in accordance with Clause 3.2, as adjusted pursuant to this Contract.
- (k) **Contractor's Margin on Prime Costs Item** means the amount calculated in accordance with **Item 12** of the Schedule;
- (l) **Credit Information, Reporting and Management Policy** means the current policy for managing credit information and reporting credits defaults and related information to agencies as maintained and published by the Contractor on its website from time to time;
- (m) **Date for Practical Completion** means the date on which the Works are complete apart from minor omissions or minor defects as may be set out at **Item 19** of the Schedule, as may be varied in accordance with clause 12 or otherwise under this Contract;
- (n) **Deposit** means the amount set out at **Item 6** of the Schedule;
- (o) **Development Approval** has the meaning given to that term in clause 5.7 of these terms;
- (p) **Dispute** has the meaning given to that term in clause 15.1 of these terms;
- (q) **Exclusions** means any excluded work or materials set out at **Item 5** of the Schedule and as otherwise notified to the Client at the time of engagement or in the Contractor's rates schedule as notified and updated from time to time;
- (r) **GST** means any tax imposed under the GST Legislation on supply (without regard to any input tax credit);
- (s) **GST Legislation** means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposing Act;
- (t) **Health Emergency** means The Covid – 19 Emergency as defined in section 315 of the *Public Health Act 2005 (QLD)*, including any "public health emergency" declared by the relevant Minister that Act or any subsequent act and/or any similar emergency, pandemic, or state of affairs declared or existing in Queensland or any other jurisdiction in Australia under any applicable Commonwealth health legislation which impacts the Works.
- (u) **Insolvency Event** means in the case of a corporation, being under administration, official management or in provisional liquidation or liquidation on the grounds of its insolvency or being subject to an application for the corporation to be wound up which is not dismissed within 10 Business Days of having been filed or the subject of anything analogous to or having similar effect under the law of the relevant jurisdiction and in the case of an individual, it means being an insolvent under administration;
- (v) **Laws** means any Queensland law or regulation applicable to the Works;
- (w) **Limitation Cap** means an amount not exceeding 5% of the Contract Sum;
- (x) **Materials** has the meaning given to that term in clause 13.1 of these General Terms;
 - (y) **PPSA** means the *Personal Property Securities Act 2009*;
 - (z) **Plans and Specifications** mean those documents set out in **Item 4** of the Schedule;
 - (aa) **Prime Cost Items** means the items intended to be included in the Works set out at **Item 9** of the Schedule;
 - (bb) **Progress Claims** means the claims which can be made by the Contractor for payment by the Client for specified percentages of the Works which have been completed but not paid for at the time the claim is made as set out at **Item 16** of the Schedule;
 - (cc) **Project** means the general description of the nature of the Works to be carried out under this Contract set out at **Item 1** of the Schedule;
 - (dd) **Provisional Sum Allowance** means the amount set out at **Item 10** of the Schedule;

- (ee) **QBCC Act** is the *Queensland Building and Construction Commission Act 1991* (Qld);
- (ff) **QBCC Contract Amount** means the dollar amount prescribed under the QBCC Act and by regulation over which parties are required to enter into a compliant written Contracts for Works.
- (gg) **Qualifying Cause of Delay** has the meaning given to that term in clause 12.5 of these terms;
- (hh) **Quote** means the Contract Fixed Price Component calculated in accordance with the Contractor's specified rates as notified to the Client and adjusted from time to time;
- (ii) **Relevant Criteria** for materials means:
 - (a) generally accepted practices or standards applied in the building industry for the materials; or
 - (b) specifications, instructions or recommendations of manufacturers or suppliers of the materials;
- (jj) **Schedule** means the Quotation and any Schedule to the Contract for the Works;
- (kk) **Security Interest** has the same meaning given to that term under the *Personal Property Securities Act 2009*;
- (ll) **Site** or **Site Address** means the Street address set out at **Item 2** of the Schedule or Quote;
- (mm) **Total Contract Price** means the amount set out at **Item 14** of the Schedule;
- (nn) **Total of Progress Claims** means the total of all Progress Claims plus the Deposit;
- (oo) **Variation** means a change to the scope of Works being an addition, substitution or omission from the original scope of Works; the time within which the Works are to be effected; and/or the price of the Works;
- (pp) **Variation Notice** has the meaning given to it in clause 11 of these terms;
- (qq) **Works** means all work for which the Contractor is licensed and engaged including any labour and materials required or equipment deemed reasonably necessary by the Contractor in order to complete the plumbing, drainage and/or gas or solar installation and includes all associated works referred to in this Contract and deemed reasonably necessary by the Contractor, but does not include any Exclusions to the Works.