

TERMS AND CONDITIONS OF TRADE FOR SERVICES

1. DEFINITIONS

- **"Service Provider"** means Emma Watt of 1/14 Osborne Ave Glen Iris VIC 3146
- **"Contract"** is for the supply of the Services pursuant to these terms and conditions.
- **"Contract Price"** is the agreed price for the conduct of the Services.
- **"Customer"** means any entity that engages the Service Provider to perform Services.
- **"Services"** means all work undertaken by the Service Provider.
- **"Materials"** means all materials used by the Service Provider to perform the Services.
- **"Sub-Contractor"** means any entity with whom the Service Provider may arrange for the performance of any Services.

2. THE CUSTOMER MUST:-

- Make payment of deposits and/or payments of the Contract Price on the agreed terms.
- Pay interest at 2% per annum above the rate fixed by the Penalty Interest Rates Act of 1983 on all overdue payments until date of payment.
- Pay the Contract Price in Australian dollars, free of exchange and without deduction of any kind.
- Accept this Contract at the same time it engages the Service Provider.
- Be responsible for all additional costs and expenses and sign job variation orders authorising such costs and expenses.
- Accept this Contract for themselves as well as for all other parties on whose behalf they are acting.
- Be bound by and warrant the accuracy of all descriptions, values and other particulars furnished to the Service Provider for customs, and other purposes, and to indemnify the Service Provider against all losses.

- Pay for any duty, tax (including GST), impost or outlays of whatsoever nature levied in connection with the Services.
- Be solely responsible for and indemnify the Service Provider against:-
 - any loss or damage caused by the Services;
 - all claims whatsoever for injury to person or property caused by or in connection with the Services.
- Accept all risk and responsibility for the performance of the Services being sufficient and suitable for its purpose.
- Insure the Services against damage.
- Accept that completion dates are given in good faith by the Service Provider having regard to known conditions at time of quoting and that the Service Provider is not liable for damages or penalties arising from delays in the provision of the Services.
- Limit the liability of the Service Provider, whatsoever and howsoever arising and unless otherwise expressly excluded under these conditions, to a sum equivalent to the costs of replacing the Materials required for the Services out of which the claim or liability arises.
- Acknowledge that the information referred to in this Contract may be used to:
 - access an application by the Customer for credit;
 - assist the Customer to avoid defaulting on their credit obligations; and/ or
 - notify other credit providers of any default by the Customer.
- Upon the termination of this Contract promptly return to the Service Provider or otherwise dispose of as the Service Provider may instruct all samples, patterns, instruction books, technical pamphlets, catalogues, advertising material, specifications and other materials, documents and papers whatsoever sent to the Customer and relating to the business of the Service Provider;

- Acknowledge that documentation, specifications, reports, data or information including the software and the Services in respect of which the Service Provider claims proprietary rights and which is confidential and a trade secret remains the property of the Service Provider (“the intellectual property”);

3 THE CUSTOMER MUST NOT:-

- Withhold payment of any amount due to the Service Provider on account of any claim against the Service Provider whether admitted or disputed.
- Deny a signature of any employee, agent or carrier utilised or employed by the Customer.
- Claim for faulty Services unless in writing and made within seven days of the date of completion of the Services.
- Assign, transfer, charge or in any manner make over or purport to assign, transfer, charge or make over this Contract or its rights thereunder or any part thereof unless approved in writing by the Service Provider;
- Either during the continuance of the Services or at any time thereafter use or disclose to any person any confidential information of or relating to the Service Provider;
- Circulate, distribute or disclose any intellectual property.

4 THE SERVICE PROVIDER MUST:-

- Be paid all brokerages, commissions, allowances and other remunerations.
- Perform the Services.

5. THE SERVICE PROVIDER MUST NOT:-

- Be liable under any circumstances for any loss, damage or expenses arising from or in any way connected with marks, weights, numbers, brands, contents quality or description of any Services.
- Be precluded from raising a debit in respect of any fee or disbursement lawfully due to it, whether or not any notice was given that further debits were to follow.

- Be liable for damage unless such loss or damage occurs whilst the Services are being performed by the Service Provider and under its actual control and unless such damage is due to the wilful neglect or default of the Service Provider or its own servants.
- Be liable for damages arising from loss of market or attributable to delay in forwarding or in transit or failure to carry out the instructions given to it.
- Accept or deal with any noxious, dangerous or inflammable or explosive goods or any goods likely to cause damage.
- Be under any obligation to effect a separate insurance on each consignment but may declare it on any open or general policy. Should the insurers dispute their liability for any reason the insured shall have recourse against the insurers only and the Service Provider shall not be under any responsibility or liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Service Provider or paid to the Service Provider by its Customer.
- Have a liability of any nature whatsoever to effect a recovery of amounts wrongfully paid or levied.
- Be liable for any loss arising directly or indirectly from advice given.

6. THE SERVICE PROVIDER MAY:-

- Add to the Contract Price any amount which may be required to be remitted to any appropriate authority to properly perform the Contract.
- Claim in addition to the Contract Price any moneys owed by the Customer to the Service Provider or to pay for any of the Service Provider's equipment which was lost, damaged, stolen or destroyed during the course of the Contract.
- Claim and recover from the Customer all losses, costs and expenses incurred by the Service Provider in consequence, directly or indirectly, of any breach of the Contract on the part of the Customer including the legal costs, as between Solicitor and own client.

- Decide at what time to perform any or all of the various acts which may be necessary for the completion of its Services in relation to any particular matter.
- Terminate this Contract forthwith in any of the following events:
 - if the Customer commits a breach of any of the terms or conditions of this Contract;
 - if the Customer enters into liquidation whether compulsorily or voluntarily or compound with its creditors or take or suffer any similar action in consequence of debt;
 - if from any cause the Customer is prevented from performing its duties hereunder for a period of three consecutive months or for a total period of three months in any one period of twelve calendar months;
 - if the Customer is guilty of any conduct which in the opinion of the Service Provider is prejudicial to the Service Provider's interests;
 - if the Customer purports to assign the burden or benefits or charge the benefits of this Contract without the written consent of the Service Provider.

7. THE PARTIES AGREE THAT:-

- This Contract is to be governed by the laws of the State of Victoria.
- These conditions apply to all Services supplied by the Service Provider to the Customer unless expressly varied in writing by the Service Provider.
- Ownership of all Materials and Services remain with the Service Provider and do not pass to the Customer until the Service Provider has received payment of the Contract Price in full.
- The Service Provider is not liable for any consequential damages or loss of whatsoever nature in any circumstances.
- The Service Provider is not liable for any loss suffered by the Customer subsequent to performance of the Services.
- The Contract constitutes the only agreement between the Service Provider and the Customer.
- The Customer has not been induced to enter into this Contract by any representations whatsoever made by or on behalf of the Service Provider.
- No variation, alteration or addition to the Contract shall be of any force or effect unless in writing and signed by a duly authorised representative of the Service Provider and the Customer.
- Where it is necessary for an examination to be held or other action to be taken by the Service Provider in respect of Services being performed by it which are damaged, no responsibility attaches to the Service Provider for any failure to hold such examination or take such other action unless the Service Provider has been advised in sufficient time to arrange for such examination or for the taking of such other action that such Services have been in a damaged condition.
- References to this document include its recitals and any schedule or annexure.
- It is the intention of the parties that this document shall take effect as an agreement.
- If a party makes a *taxable supply* in connection with this Contract for a *consideration*, then the party liable to pay for the *taxable supply* must also pay, at the same time and in the same manner as the *value* is otherwise payable, the amount of any GST payable in respect of the *taxable supply*.

**APPLICATION FOR PROVISION OF SERVICES
EMMA WATT
1/14 OSBORNE AVE GLEN IRIS VIC 3146**

Customer Reference New Customer Existing Customer

Applicant's Particulars:

Name:
A.C.N. or Business Registration Number:
Address where Services are to be provided:
Telephone No: Mobile No:
Fax No: e-mail:
Website:

Directors/Partners/Members:

Authorised Service Provider Representative:

Name:
Address:
Telephone No: Email:

Sum of money paid in advance as a deposit \$.....

Method of Account Payment:

Credit Card Cheque Cash Other

Fees are valid for a period of 12 months, provided that, if the number of transactions, or the number of staff, or any other variable which is relevant to the calculation of the fee, changes permanently by more than 10%, the Service Provider has the right to increase the fee with immediate effect, for the remainder of the 12 month period.

The information given to the Service Provider is true and correct.

This Contract shall continue for a period of _____ months from the date of signature and may be renewed for 12 months at a time.

Applicant's Bank Details:

Service Provider's Bank Details:

The information which is required to enable the Service Provider to commence:-

I/ We:

- Apply for the opening of a credit ledger account and provide the information in support thereof.
- Understand that the normal trading terms are strictly 30 days.
- Understand that credit may be withdrawn should accounts not be paid.
- Understand that interest at the Service Provider's current bank overdraft rates may be charged on overdue balances.
- Understand that this application is made subject to acceptance by the Service Provider.
- Have read and fully understand the Terms and Conditions of Trade and agree to be bound by them.

Signature

Name	Position
Witness	Date