

I accept this quotation and certify that the above information is true and correct, I have read and understand the TERMS AND CONDITIONS OF TRADE (overleaf, attached or as posted on the website) by psd ecocabinets which form part of, and are intended to be read in conjunction with this Quotation Form and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein.

_____ Signature _____ Date

1. 1. Definitions 1.1 “EC” means psd ecocabinets, its successors and assigns or any person acting on behalf of and with the authority of psd ecocabinets.

1.2 “Client” means the person/s ordering the Works as specified in any invoice, document or order, and if there is more than one Client is a reference to each Client jointly and severally.

1.3 “Works” means all Works (including consultation, manufacturing and/or installation Works) or Materials supplied by EC to the Client at the Client’s request from time to time (where the context so permits the terms ‘Works’ or ‘Materials’ shall be interchangeable for the other).

1.4 “Price” means the Price payable (plus any Goods and Services Tax (GST) where applicable) for the Works as agreed between EC and the Client in accordance with clause 5 below.

2. Acceptance

2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of any Works.

2.2 These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and EC.

3. Electronic Transactions Act 2003

3.1 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2003 or any other applicable provisions of that Act or any Regulations referred to in that Act.

4. Change in Control

4.1 The Client shall give EC not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client’s details (including but not limited to, changes in the Client’s name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by EC as a result of the Client’s failure to comply with this clause.

5. Price and Payment

5.1 At EC’s sole discretion the Price shall be either:

(a) as indicated on invoices provided by EC to the Client in respect of Works performed or Materials supplied; or

(b) EC's quoted Price (subject to clause 5.2) which shall be binding upon EC provided that the Client shall accept EC's quotation in writing within thirty (30) days.

5.2 EC reserves the right to change the Price:

(a) if a variation to the Materials which are to be supplied is requested; or

(b) if a variation to the Works originally scheduled (including any applicable plans or specifications) is requested; or

(c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, limitations to site accessibility, prerequisite work by a third party not being complete, etc.) which are only discovered on commencement of the Works; or

(d) in the event of increases to EC in the cost of labour or materials which are beyond EC's control.

5.3 Variations will be charged for on the basis of EC's quotation, and will be detailed in writing, and shown as variations on EC's invoice. The Client shall be required to respond to any variation submitted by EC within ten (10) working days. Failure to do so will entitle EC to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.

5.4 At EC's sole discretion a non-refundable deposit may be required.

5.5 Time for payment for the Works being of the essence, the Price will be payable by the Client on the date/s determined by EC, which may be:

(a) on completion of the Works; or

(b) before delivery of the Materials for supply only agreements; or

(c) by way of progress payments in accordance with EC's specified progress payment schedule. Such progress payment claims may include the reasonable value of authorised variations and the value of any Materials delivered to the site but not yet installed; or

(d) the date specified on any invoice or other form as being the date for payment; or

(e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by EC.

5.6 Payment may be made by cash, bank cheque, electronic/on-line banking, or by any other method as agreed to between the Client and EC.

5.7 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by EC nor to withhold payment of any invoice because part of that invoice is in dispute.

5.8 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to EC an amount equal to any GST EC must pay for any supply by EC under

this or any other agreement for the sale of the Materials. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

6. Delivery of the Works

6.1 Subject to clause 6.2 it is EC's responsibility to ensure that the Works start as soon as it is reasonably possible.

6.2 The cost of travel is included in the price.

6.3 The Works' commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that EC claims an extension of time (by giving the Client written notice) where completion is delayed by an event beyond EC's control, including but not limited to any failure by the Client to:

- (a) make a selection; or
- (b) have the site ready for the Works; or
- (c) notify EC that the site is ready.

6.4 At the Seller's sole discretion, the cost of delivery is included in the Price.

6.5 EC may deliver the Works by separate installments. Each separate installment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

6.6 Any time specified by EC for delivery of the Works is an estimate only and EC will not be liable for any loss or damage incurred by the Client as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the Works to be supplied at the time and place as was arranged between both parties. In the event that EC is unable to supply the Works as agreed solely due to any action or inaction of the Client, then EC shall be entitled to charge a reasonable fee for re-supplying the Works at a later time and date, and/or for storage of the Materials.

7. Risk

7.1 If EC retains ownership of the Materials under clause 8 then: where EC is supplying Materials only, all risk for the Materials shall immediately pass to the Client on delivery and the Client must insure the Materials on or before delivery. Delivery of the Materials shall be deemed to have taken place immediately at the time that the Materials are delivered by EC or EC's nominated carrier to the Client's nominated delivery address (even if the Client is not present at the address).

7.2 Notwithstanding the provisions of clause 7.1 if the Client specifically requests EC to leave Materials outside EC's premises for collection or to deliver the Materials to an unattended location then such materials shall always be left at sole risk of the Client and it shall be the Client's responsibility to ensure the Materials are insured adequately or at all. In the event that such Materials are lost, damaged or destroyed then replacement of the Materials shall be at the Client's expense.

7.3 Where the Supplier is required to install the Materials the Client warrants that the

structure of the premises or equipment in or upon which these Materials are to be installed or erected is sound and will sustain the installation and work incidental thereto and the Supplier shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto

7.4 The Client acknowledges that Materials (including but not limited to paint, timber, granite, tiles & concrete) supplied may exhibit variations in shade tone, colour, texture, surface and finish, and may fade or change colour over time. The Supplier will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.

7.5 Granite, marble, engineered stone, and glass have natural elements in the products that have naturally occurring variations in colour and shade tones, markings, and veining may vary from colour samples provided. EC gives no guarantee (expressed or implied) that colour samples will match the Goods supplied. EC will make every effort to match colour samples to the Goods supplied but will not be liable in any way whatsoever for colour samples differing from the Goods supplied.

7.6 The Client acknowledges that Materials (including but not limited to paint, timber, tiles) supplied may exhibit variations in shade tone, colour, texture, surface and finish, veining and may fade or change colour over time. The Seller will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.

7.7 Marble and Granite being porous products, therefore, all products supplied by the Seller are sealed for protection. However, oil and other acidic substances are prone to causing discolouration and staining if left on surfaces for some time. The Client agrees to indemnify the Seller against any damage occurring after delivery and installation.

7.8 The Client acknowledges that Materials supplied may: (a) fade or change colour over time; and (b) expand, contract or distort as a result of exposure to heat, cold, weather; and (c) mark or stain if exposed to certain substances; and (d) be damaged or disfigured by impact or scratching.

8. Access

8.1 The Client shall ensure that EC has clear and free access to the work site at all times to enable them to undertake the Works. EC shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of EC.

8.2 It is the responsibility of the Client to ensure that access is suitable to accept the weight of laden trucks, lead trucks, or lifting equipment as may be deemed necessary by EC.

9. Compliance with Laws

9.1 The Client and EC shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Works.

9.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Works

1.1 The Client agrees that the site will comply with any Occupational health and safety

(WHS) laws relating to building/construction sites and any other relevant safety standards or legislation.

2. Title

2.1 EC and the Client agree that ownership of the Materials shall not pass until:

- (a) the Client has paid EC all amounts owing to EC; and
- (b) the Client has met all of its other obligations to EC.

2.2 Receipt by EC 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.

2.3 It is further agreed that until ownership of the Materials passes to the Client in accordance with clause 8.1:

(a) the Client is only a bailee of the Materials and unless the Materials have become fixtures must return the Materials to EC on request.

(b) the Client holds the benefit of the Client's insurance of the Materials on trust for EC and must pay to EC the proceeds of any insurance in the event of the Materials being lost, damaged or destroyed.

(c) the production of these terms and conditions by EC shall be sufficient evidence of EC's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with EC to make further enquiries.

(d) the Client must not sell, dispose, or otherwise part with possession of the Materials other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Materials then the Client must hold the proceeds of any such act on trust for EC and must pay or deliver the proceeds to EC on demand.

(e) the Client should not convert or process the Materials or intermix them with other Materials but if the Client does so then the Client holds the resulting product on trust for the benefit of EC and must sell, dispose of or return the resulting product to EC as it so directs.

(f) unless the Materials have become fixtures the Client irrevocably authorises EC to enter any premises where EC believes the Materials are kept and recover possession of the Materials.

(g) EC may recover possession of any Materials in transit whether or not delivery has occurred.

(h) the Client shall not charge or grant an encumbrance over the Materials nor grant nor otherwise give away any interest in the Materials while they remain the property of EC.

(i) EC may commence proceedings to recover the Price of the Materials sold notwithstanding that ownership of the Materials has not passed to the Client.

3. Personal Property Securities Act 2009 ("PPSA")

3.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

3.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Materials and/or collateral (account) – being a monetary obligation of the Client to EC for Works – that have previously been supplied and that will be supplied in the future by EC to the Client.

3.3 The Client undertakes to:

(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which EC may reasonably require to:

(i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;

(ii) register any other document required to be registered by the PPSA; or (iii) correct a defect in a statement referred to in clause 9.3(a)(i) or 9.3(a)(ii);

(b) indemnify, and upon demand reimburse, EC for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Materials charged thereby;

(c) not register a financing change statement in respect of a security interest without the prior written consent of EC;

(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Materials and/or collateral (account) in favour of a third party without the prior written consent of EC;

(e) immediately advise EC of any material change in its business practices of selling the Materials which would result in a change in the nature of proceeds derived from such sales.

3.4 EC and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

3.5 The Client hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

3.6 The Client waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

3.7 Unless otherwise agreed to in writing by EC, the Client waives its right to receive a verification statement in accordance with section 157 of the PPSA.

3.8 The Client shall unconditionally ratify any actions taken by EC under clauses 9.3 to 9.5.

3.9 Subject to any express provisions to the contrary (including those contained in this clause 9) nothing in these terms and conditions is intended to have the effect of contracting

out of any of the provisions of the PPSA.

4. Security and Charge

4.1 In consideration of EC agreeing to supply the Works, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

4.2 The Client indemnifies EC from and against all EC's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising EC's rights under this clause.

4.3 The Client irrevocably appoints EC and each director of EC as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause including, but not limited to, signing any document on the Client's behalf.

5. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

5.1 The Client must inspect all Materials on delivery (or the Works on completion) and must within seven (7) days of delivery notify EC in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Materials/Works as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow EC to inspect the Materials or to review the Works provided.

5.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions **(Non-Excluded Guarantees)**.

5.3 EC acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

5.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, EC makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Materials/Works. EC's liability in respect of these warranties is limited to the fullest extent permitted by law.

5.5 If the Client is a consumer within the meaning of the CCA, EC's liability is limited to the extent permitted by section 64A of Schedule 2.

5.6 If EC is required to replace any Materials under this clause or the CCA, but is unable to do so, EC may refund any money the Client has paid for the Materials.

5.7 If EC is required to rectify, re-supply, or pay the cost of re-supplying the Works under this clause or the CCA, but is unable to do so, then EC may refund any money the Client has paid for the Works but only to the extent that such refund shall take into account the value of Works and Materials which have been provided to the Client which were not defective.

5.8 If the Client is not a consumer within the meaning of the CCA, EC's liability for any defect

or damage in the Materials is:

(a) limited to the value of any express warranty or warranty card provided to the Client by EC at EC's sole discretion;

(b) limited to any warranty to which EC is entitled, if EC did not manufacture the Materials;

(c) otherwise negated absolutely.

5.9 Subject to this clause 11, returns will only be accepted provided that:

(a) the Client has complied with the provisions of clause 11.1; and

(b) EC has agreed that the Materials are defective; and

(c) the Materials are returned within a reasonable time at the Client's cost (if that cost is not significant); and

(d) the Materials are returned in as close a condition to that in which they were delivered as is possible.

5.10 Notwithstanding clauses 11.1 to 11.9 but subject to the CCA, EC shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:

(a) the Client failing to properly maintain or store any Materials; (b) the Client using the Materials for any purpose other than that for which they were designed;

(c) the Client continuing to use any Materials after any defect became apparent or should have become apparent to a reasonably prudent operator or user;

(d) interference with the Works by the Client or any third party without EC's prior approval;

(e) the Client failing to follow any instructions or guidelines provided by EC;

(f) fair wear and tear, any accident, or act of God.

5.11 Notwithstanding anything contained in this clause if EC is required by a law to accept a return then EC will only accept a return on the conditions imposed by that law.

6. Intellectual Property

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6.1 Where EC has designed, drawn, written plans or a schedule of Works, or created any products for the Client, then the copyright in all such designs, drawings, documents, plans, schedules and products shall remain vested in EC, and shall only be used by the Client at EC's discretion. Under no circumstances may such designs, drawings and documents be used without the express written approval of EC.

6.2 The Client warrants that all designs, specifications or instructions given to EC will not

cause EC to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify EC against any action taken by a third party against EC in respect of any such infringement.

6.3 The Client agrees that EC may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or products which EC has created for the Client.

7. Default and Consequences of Default

Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar

- . 1.1 month (and at EC's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- . 1.2 If the Client owes EC any money the Client shall indemnify EC from and against all costs and disbursements incurred by EC

in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, EC's contract default fee, and bank dishonour fees).

1.3 Further to any other rights or remedies EC may have under this contract, if a Client has made payment to EC, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by EC under this clause 13 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this agreement.

1.4 Without prejudice to EC's other remedies at law EC shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to EC shall, whether or not due for payment, become immediately payable if:

(a) any money payable to EC becomes overdue, or in EC's opinion the Client will be unable to make a payment when it falls due; (b) the Client has exceeded any applicable credit limit provided by EC;

(c) the Client becomes insolvent or bankrupt, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

2. Cancellation

2.1 Without prejudice to any other remedies EC may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions EC may suspend or terminate the supply of Works to the Client. EC will not be liable to the Client for any loss or damage the Client suffers because EC has exercised its rights under this clause.

2.2 EC may cancel any contract to which these terms and conditions apply or cancel delivery of Works at any time before the Works are commenced by giving written notice to the Client.

On giving such notice EC shall repay to the Client any sums paid in respect of the Price, less any amounts owing by the Client to EC for Works already performed. EC shall not be liable for any loss or damage whatsoever arising from such cancellation.

2.3 In the event that the Client cancels the delivery of Works the Client shall be liable for any and all loss incurred (whether direct or indirect) by EC as a direct result of the cancellation (including, but not limited to, any loss of profits).

2.4 Cancellation of orders for products made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

3. Dispute Resolution

3.1 If a dispute arises between the parties to this contract, then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:

(a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and

(b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

4. Privacy Act 1988

4.1 The Client agrees for EC to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by EC.

4.2 The Client agrees that EC may exchange information about the Client with those credit providers and with related body corporates for the following purposes:

(a) to assess an application by the Client; and/or (b) to notify other credit providers of a default by the Client; and/or

(c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or

(d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.

. 4.3 The Client consents to EC being given a consumer credit report to collect overdue payment on commercial credit.

. 4.4 The Client agrees that personal credit information provided may be used and retained by EC for the following purposes (and for

other agreed purposes or required by):

- . (a) the provision of Works; and/or
- . (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Works; and/or
- . (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
- . (d) enabling the collection of amounts outstanding in relation to the Works.

4.5 EC may give information about the Client to a CRB for the following purposes:

- . (a) to obtain a consumer credit report;
- . (b) allow the CRB to create or maintain a credit information file about the Client including credit history.

4.6 The information given to the CRB may include:

- . (a) personal information as outlined in 15.1 above;
- . (b) name of the credit provider and that EC is a current credit provider to the Client;
- . (c) whether the credit provider is a licensee;
- . (d) type of consumer credit;
- . (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit

account and the amount requested);

(f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and EC has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);

(g) information that, in the opinion of EC, the Client has committed a serious credit infringement;

(h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).

4.7 The Client shall have the right to request (by e-mail) from EC:

- (a) a copy of the information about the Client retained by EC and the right to request that EC correct any incorrect information; and

(b) that EC does not disclose any personal information about the Client for the purpose of direct marketing.

4.8 EC will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.

4.9 The Client can make a privacy complaint by contacting EC via e-mail. EC will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

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Service of Notices

Any written notice given under this contract shall be deemed to have been given and received: by handing the notice to the other party, in person; by leaving it at the address of the other party as stated in this contract; by sending it by registered post to the address of the other party as stated in this contract;

if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of transmission;

if sent by email to the other party's last known email address.

5.2 course of post, the notice would have been delivered.

Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary

1. 6. Construction Contracts Act 2004 6.1 At EC's sole discretion, if there are any disputes or claims for unpaid Materials and/or Works then the provisions of the

Construction Contracts Act 2004 may apply.

6.2 Nothing in this agreement is intended to have the effect of contracting out of any provisions of the Construction Contracts Act 2004 of Western Australia, except to the extent permitted by the Act where applicable.

7. General

7.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

7.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Western Australia the state in which EC has its principal place of business, and are subject to the jurisdiction of the courts in Perth, Western Australia.

7.3 Subject to clause 11 EC shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by EC of these terms and conditions (alternatively EC's liability shall be limited to damages which under no circumstances shall exceed the Price of the Works).

7.4 Neither party shall assign or sub-contract all or any part of their rights and obligations under this agreement without the written consent of the other party.

7.5 The Client agrees that EC may amend these terms and conditions by notifying the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for EC to provide Works to the Client.

7.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

7.7 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.