

# TERMS AND CONDITIONS

Unless otherwise agreed in writing by Quality Associates Pty Ltd (Quality Associates), the Client agrees that it will be bound by these terms and conditions if the Client places an order with Quality Associates and it is accepted by Quality Associates or if the Client accepts a quotation of Quality Associates. Quality Associates is not bound by any terms and conditions contained in any document issued by the Client.

## Orders, Quotes and Price

1. Once an order has been accepted by Quality Associates, it cannot be cancelled by the Client without the prior written approval of Quality Associates. Once a quotation of Quality Associates has been accepted by the Client it cannot be cancelled by the Client without the prior written approval of Quality Associates. The Client acknowledges that Quality Associates may in its absolute discretion decline to agree to the cancellation of the Services, or impose any conditions, including payment for lost opportunity, as a condition of Quality Associates' agreement.
2. Where a written quotation has been given by Quality Associates, the price is the price specified in the quotation. In any other case, Quality Associates' selling price is Quality Associates' normal price for such services. Unless otherwise stated, the price does not include GST. Unless otherwise specified in its quotation, Quality Associates may at any time change its price upon providing 30 days written notice to the Client. The Client must accept any errors or omissions in invoicing and, where applicable, the Client must accept the amended pricing and pay the difference within the time specified in these terms and conditions.
3. As errors and omissions may occur, we reserve the right to amend the price should any errors or omissions in the quotation be identified.
4. Where the Client requests changes or additions to the items detailed in this quotation they are subject to acceptance by us. All variations and the cost thereof must be agreed in writing between the Client and us and will be subject to our standard Terms and Conditions, as varied by this quotation.
5. Our quotations include a detailed description of the work we will undertake for you. Because of this, all items not specifically detailed in our quotation are excluded and, if required by you, will be an extra that will be separately negotiated.
6. The Client will provide all relevant data, information and access to relevant internal systems, sites and employees, which will be used to fulfil the scope of work.
7. We reserve the right to review and remove this offer at any time should our total services provided be changed.

## Supply & Delivery

8. The supply of services is subject to availability. Quality Associates reserves the right to suspend or discontinue the supply of services to the Client. If Quality Associates is unable to supply all of the Client's order, these terms and conditions continue to apply to any part of the order supplied.
9. Unless otherwise agreed in writing by Quality Associates, delivery of services is at Quality Associates' premises.
10. If a delivery date is specified, that date is an estimate only and Quality Associates is not liable for any delay in delivery. Time is not of the essence in relation to delivery and the Client must accept delivery and pay for the services delivered, including transport costs if applicable, even if they are delivered after any specified delivery date.

## Inspection and Acceptance

11. The Client must inspect the services immediately following completion of the services. Any claim that the services are not in accordance with these terms and conditions (including if they are defective or services not as per contract) must be made at the time services are provided, or in writing to Quality Associates within 48 hours after completion of the services to the Client. If the Client fails to make a claim then, to the extent permitted by law, the Client is deemed to have accepted the services by and the Client must pay for the services in accordance with these terms and conditions.

## Payment

12. Unless otherwise agreed, the Client must pay for services within 14 days of receipt Quality Associates' invoice. Time is of the essence in respect of the Client's obligation to make payment for services supplied by Quality Associates to the Client. Where the Services are delivered over a period exceeding one calendar month, Quality Associates may invoice the Client for the work undertaken during that month and the Client must pay the invoice in full within the above timeframe.
13. If the Client does not make any payment by the due date, commits any other material breach of these terms and conditions, or an insolvency event in respect of the Client arises or is reasonably suspected by Quality Associates, Quality Associates may (without limiting any other right or claim it may have against the Client) do any or all of the following:
  - a. charge the Client interest calculated on a daily basis on any portion of the Client's account that is overdue at the Commonwealth Bank of Australia's reference rate for business loans, available to prime commercial customers, plus 5% calculated from the date the payment was due until the date payment is made (both dates inclusive);
  - b. vary or withdraw any approved credit limit and/or terms of trade;
  - c. cancel or suspend any unfilled orders or cease providing the services;
  - d. terminate any contracts between Quality Associates and the Client and demand immediate payment of any moneys due and outstanding under those contracts;
  - e. cancel any rebate, discount or allowance due or payable by Quality Associates as at the date of the event;
  - f. institute any recovery process as Quality Associates in its discretion decides, at the Client's cost and expense.
14. If any part of an invoice is in dispute, the balance will remain payable and must be paid when due. The client has no right to set off any claim against Quality Associates from moneys owing to Quality Associates
15. The Client acknowledges that Quality Associates will in its absolute discretion invoice for any accepted services, or impose any conditions, including payment for lost opportunity, travel expenses and time spent, as a condition of Quality Associates' agreement.
16. The Client acknowledges that Quality Associates will in its absolute discretion invoice for costs incurred associated with any postponement of service, or impose any conditions, including payment for lost opportunity, travel expenses and time spent, as a condition of Quality Associates' agreement.

# TERMS AND CONDITIONS (continued)

## Copyright, Instructions and Confidentiality

17. Quality Associates will retain ownership and all copyright in relation to all documents, templates, specifications, recipes, designs, drawings, artwork, software, manuals, training and instructions owned by Quality Associates and prepared for or on behalf of the Client, despite any payment made in accordance with these terms of sale. The Client materials remains the property of the Client and Quality Associates acknowledges that it does not own any Intellectual Property Rights in the Client materials.
18. Where Quality Associates has followed any specification, plan, design, recipe or instruction furnished by or on behalf of the Client, the Client indemnifies and will keep Quality Associates indemnified against
19. In this agreement, "Confidential Information" means any information that was made available by Quality Associates to the Client in confidence and includes but is not limited to customer details, confidential installation manuals, plans, drawings, designs, specifications, price lists, rates and confidential correspondence relating to Quality Associates or its customers. The Client is to protect and preserve the confidential nature and continued secrecy of Quality Associates' Confidential Information. The Client must not at any time make any unauthorised disclosure or use of any Confidential Information in any manner which may injure or cause loss or damage to Quality Associates or its customers. Where a separate confidentiality agreement has been entered into between Quality Associates and the Client, whether before or after the provision of these terms and conditions, to the extent of any inconsistency the terms of the confidentiality agreement will prevail.

## Liability and Indemnity

20. Where Quality Associates relies on information or documentation supplied by the Client to complete a service on behalf of the Client Quality Associates is not liable for any consequences arising out of errors or omissions in the information or documentation supplied by the Client.
21. Any information, recommendation or advice relating to the services illustrated or described in catalogues, brochures, emails, websites and other literature supplied by Quality Associates is not intended to constitute any guarantee, condition or warranty between Quality Associates and the Client, but this clause shall not be construed as excluding any liability which by law cannot be excluded.
22. To the extent permitted by law these terms and conditions exclude all other guarantees, conditions, warranties, liabilities or representations in relation to the services. Where legislation implies in these terms and conditions any guarantee, condition or warranty that cannot be excluded or modified, to the extent permitted by law the liability of Quality Associates for a breach of any such guarantee, condition or warranty is limited at Quality Associates' option in the case of advice, recommendations, information or services to any one or more of the following:
  - a. supplying the advice, recommendations, information or services again;
  - b. payment of the cost of supplying equivalent advice, recommendations, information or services; by credit to the Client's account, in cash or by cheque at Quality Associates' discretion; or
  - c. repayment of any part of the purchase price of the services which has been paid by the Client, by credit to the Client's account, in cash or by cheque at Quality Associates' discretion.
23. Subject to clause 16, Quality Associates is not liable for any loss or damage of any kind whatsoever and howsoever arising out of or in connection with the supply of services, including (without limitation) any indirect or consequential loss (including without limitation loss of profit, loss of revenue, loss of contract, loss of goodwill or increased cost of workings), arising out of or in connection with the supply of services, even if due to the negligence of Quality Associates or any of its employees or agents.
24. The Client indemnifies and will hold Quality Associates indemnified from and against all costs, expenses, loss, liability or damage, whatsoever and howsoever, whether directly or indirectly, and whether or not foreseeable, suffered or incurred by Quality Associates, and any liability whatsoever in respect of any action, claim, proceeding brought or threatened to be brought (including all costs and expenses which Quality Associates may suffer or incur in disputing any such action, claim or proceeding) in respect of, in relation to or in connection with any negligent act or omission of the Client or any breach of these terms and conditions, or any law, by the Client. The indemnity under this clause is ongoing, and survives any termination of the services. All other indemnities given by the Client pursuant to these terms and conditions shall also survive termination of the services.

## Other Terms

25. This agreement contains the entire understanding of the parties as to its subject matter. There is no other understanding agreement, warranty or representation whether express or implied in any way defining or extending or otherwise relating to these provisions or binding on the parties with respect to the services or their operation. This Agreement may not be assigned (in whole or in part) by the Client without the prior written consent of Quality Associates.
26. If any provision of these terms or conditions is unenforceable, illegal or void, that provision is severed and the other provisions remain in force.
27. Quality Associates may amend or vary these terms and conditions by notifying the Client in writing of the amendment or variation.
28. This agreement and the transactions contemplated by it are governed by the law in force in Victoria and the Parties submit to the exclusive jurisdiction of the courts of Victoria.