

## 1. Products and services

The Terms and Conditions refer to the goods and services provided under the business names Trasan and Pilbara Sheds trading under the legal entity Trasan Contracting Pty Ltd.

## 2. Placement of Orders

Work will not commence without:

- a) The Customer issued purchase order signed as an acceptance of the agreed quote.
- b) The quote or budget estimate issued under the business name Trasan or Pilbara Sheds signed by the Customer.

## 3. Contractors Obligations

The Contractor will execute works for the Customer as ordered from time to time during the contract term in accordance with industry standards and any Work order issued by the Customer.

Any variance must be agreed in writing and/or by the terms of item 2.

## 4. Plant, Equipment, and Tools of Trade

The Contractor must provide all plant, equipment and tools of trade necessary to complete the works.

The Contractor must ensure that all plant, equipment and tools of trade used in or for the works are sound and in good condition and otherwise comply with any relevant licensing or other legislation.

## 5. Payment

a) All payments from the Customer must be settled within 20 days unless prior approval of extended terms has been accepted before commencement of the works.

a) The Customer agrees to pay the Contractor at the rates stated in the schedule or where no applicable rates are stated reasonable rates unless otherwise agreed between the parties.

b) Progress claims must be submitted in the form of a tax invoice at the times stated in the schedule.

c) The Customer must pay progress claims within the time stated in the Schedule.

d) The Customer is entitled to deduct from any payment to the Contractor any amounts owing by the Contractor to the Customer under the contract.

## 6. Credit Applications

Credit will only be given on written acceptance of an approved credit application executed by the Business Manager and Director.

## 7. Late Payments

Late or non-payments will be subject to debt recovery and interest charges described as per *Construction Contracts Act 2004*.

a) Late payments of more than 20 days are subject to a 5% interest charge every 30 days from the initial 20 day payment date limit.

b) Non-payments may be subject to court registered claims after 60 days from date of due date of invoice.

c) The Customer may also be subjected to a written notice of account suspension until the claim has been settled.

## 8. Commencement and Completion

a) The Contractor must commence the works on the date specified in the Work Order provided that the commencement date must be at least two clear days from the date of receipt of the work order.

b) If the Contractor fails to complete the works by the date specified in the work order or within any extended time approved in writing by the Customer, provided the date specified in the work order or within any extended time approved in writing by the Customer, provided the date specified is reasonable, the Contractor must pay or allow by way of liquidated damages the sum stated in the Schedule.

c) The Contractor may claim, and the Customer must approve reasonable extensions of time for any delay beyond the control of the Contractor.

d) The Contractor shall be entitled to any direct costs incurred by reason of a delay to the extent that the delay was caused by the Customer.

## 9. Variations

The Customer may vary the works in writing in relation to any work order without issuing a new work order provided the variation is within the general scope of the works notwithstanding that the variation may be instructed after the contract term.

Variations outside the scope of works will require a new work order in writing prior to the commencement of the variation.

## 10. Statutory requirements and fees

The Contractor is responsible for complying with all statutory requirements regarding superannuation contributions; income tax and payroll tax in respect of the Contractor and all others employed by the Contractor and shall comply with all the terms of any award or workplace agreement. The Contractor will give all necessary notices and pay all necessary fees and will comply with all provisions and requirements statutory or otherwise relevant to the works. The Contractor will comply with the lawful directions of any authority having jurisdiction over the works.

## 11. Sub-contracting and assignment

a) The Contractor will not subcontract any agreement without the written consent of the Customer which shall not be unreasonably withheld.

b) The Contractor by subcontracting any part or parts of the works is not relieved of any liabilities or obligations under this agreement

## 12. Insurance

The Contractor must insure against any liability at common law under the Workers Compensation act in respect of any person employed by the Contractor in or about the execution of the works or in respect of whom the Contractor may be or become liable. The Contractor must also insure against liability to third persons or in respect of the property of third persons in an amount satisfactory to the Customer.

Evidence of currency and sufficiency of insurances must be provided within 7 days of a written request from the Customer. The Contractor's right to payment is automatically suspended upon non-compliance with this clause until such non-compliance has been rectified.

## 13. Default

If the Contractor becomes bankrupt or goes into liquidation or is in default or in breach of this agreement, then the Customer, without prejudice to any other rights or remedies may by notice in writing terminate this agreement.

If the Customer defaults in payment, the Contractor may give notice in writing of its intention to terminate this agreement. The Customer must remedy the default or pay disputed amounts into a trust account in the joint names of the Customer

and the Contractor and refer the dispute to dispute resolution within 7 days or the Contractor may terminate this agreement.

## 14. Settlement of disputes

If any dispute or difference arises between the Customer and the Contractor in connection with the works or with this agreement either party may give notice to the other in writing of the dispute or difference which may (unless settled within 7 days) be referred to Arbitration in accordance with the provisions of the *Commercial Arbitration Act 1985* as amended. If a dispute is referred to arbitration or a payment dispute is referred to adjudication under the *Construction Contracts Act 2004*, the arbitrator or adjudicator will be nominated by the Institute of Arbitrators and Mediators Australia, Western Australian Chapter.

## 15. Removal of Workmen

The Customer may require removal from the works of any person employed by the Contractor for incompetence or misconduct.

## 16. Performance

If the Contractor wholly suspends or neglects to proceed with the works with due diligence, the Customer may give notice in writing to the Contractor and if the Contractor does not properly proceed with the works within three working days then the Customer may employ others to complete the works. The Customer may deduct from monies due to the Contractor or charge the Contractor the costs incurred in completion of the works and the Contractor must not do or cause to be done anything to prevent others from completing the works.

## 17. Defects Liability Period

The Contractor will upon written notice make good any defects that may appear in the works prior to the expiration of the Defects Liability Period stated in the Schedule. This clause does not have the effect of limiting the Contractor liability for defective work.

## 18. Notices

Any notices to be given under this agreement are sufficiently given if served personally, sent by prepaid post at the address appearing in this agreement or at the last known place of abode or

business or sent by email to the address appearing in this agreement or otherwise advised in writing.

## **19. Interpretation**

a) The terms of this Contract shall continue to have full force and effect until completion of all works in relation to any works order issued during the contract term including variations and until the fulfilment of all obligations under the terms of the contract provided that no work order may be issued after the contract term unless agreed in writing by both parties.

b) Reference to persons includes limited companies and the singular includes the plural and vice versa.

c) This agreement is the entire agreement between the parties

## **20. Warranties and Disclaimers**

a) Contractor will remedy all goods purchased according to the manufacturer's warranty against defects.

b) Services provided guarantees are provided under the Australian consumer law schedule of the *Competition and Consumer Act 2010*.

c) All claims for goods and materials must be in writing and received within fourteen days of receipt of goods and/or materials by the Customer.

## **21. Freight and delivery**

Unless otherwise agreed in writing by the Contractor delivery is at the premises located at Unit 2/2575 Augustus Dve, Karratha WA 6714.

If Contractor arranges the carriage of the goods for delivery to the Customer, the Contractor will be deemed to contract as agent for the Customer, the Customer will bear all risks with respect to the goods during carriage and will likewise be responsible for effecting any insurance of the goods during carriage.

The Contractor may charge a reasonable handling fee for all orders to be delivered to the Customer. The Customer indemnifies Contractor for the cost of all transport arranged by Contractor on the Customer's behalf.

If a delivery date is specified, that date is an estimate only and Contractor is not liable for any delay in delivery. Time is not of the essence in relation to delivery and the Customer must accept delivery and pay of the goods delivered, including

transport costs if applicable even if they are delivered after any specified delivery date.

## **22. Return of Goods**

The Customer must inspect the goods or services immediately following delivery or completion of the services. The Customer may only return goods with the prior approval of the Contractor and within 7 days of the date of delivery in resale -able condition and, where appropriate, in the original packaging. A reasonable handling fee for any returned goods may be charged to the Customer. Any claim that the goods or services are not in accordance with these terms and conditions (including if they are defective, damaged during delivery, are short delivered or services not as per contract) must be made at the time of delivery of the goods or provision of the services, or in writing to the Contractor within 48 hours after delivery of the goods/completion of the services to the Customer. If the Customer fails to make a claim then, to the extent permitted by law, the goods or services are deemed to have been accepted by the Customer and the Customer must pay for the goods or services in accordance with these terms and conditions.

## **23. Period of notice**

Any variations to the goods and services must be provided in writing at least 7 days prior to the commencement of the works.

If the Customer fails to provide variation requests prior to freight form areas outside the vicinity of Karratha the Customer will be liable for the payment of the goods upon delivery to the premises of the contractor.

## **24. Website Disclaimer**

Trasan makes every effort to ensure that information contained in these pages is accurate and up to date. However, no liability is accepted arising from reliance upon the information contained in these pages or any other information accessed via this site.

## ***Definitions:***

**Agreement** – The terms agreed upon between the Contractor and the Customer

**Contractor** – Trasan Contracting Pty Ltd and all subsidiary subcontractors and contractors.

**Customer** – Refers to the person/s agreeing to the works to be completed

**Works** - tasks nominated for a given service

**Works Order** – written agreement nominating all the terms, can also be referred to as purchase order.