

1. Definitions

1.1. "Contractor" shall mean Permaculture Institute of Australia Pty Ltd A.B.N. 82 669 662 882 its successors and assigns or any person acting on behalf of and with the authority of Permaculture Institute of Australia Pty Ltd A.B.N. 82 669 662 882 including but not limited to its directors, officers, employees, agents, subcontractors, franchisees, licensees, and assigns.

1.2. "Client" shall mean the Client or potential Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by the Contractor to the Client. Anyone contacting the Contractor by any means for the purpose of obtaining information and/or engaging or requiring to engage in "Works" or supply of "Goods".

1.3. "Guarantor" means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.

1.4. "Works" shall mean all Works (and where the context so permits shall include any supply of Goods as hereinafter defined) supplied by the Contractor to the Client (and includes any advice or recommendations) and as described on the invoices, quotation, work authorisation or other forms as provided by the Contractor to the Client. But does not include "Equipment" to be supplied to the Client or any other person or entity.

1.5. "Goods" shall mean all Goods supplied by the Contractor to the Client (and where the context so permits shall include any supply of Goods as defined above). But does not include the hiring of "Equipment" to complete the Works for the Client.

1.6. "Price" shall mean the price payable for the Works and Equipment as agreed between the Contractor and the Client in accordance with clause 4 of this contract.

1.7. "Party" shall mean the Contractor set out in clause 1.1 or the Client set out in clause 1.2.

1.8. "Parties" shall mean the Contractor set out in clause 1.1 and the Client set out in clause 1.2.

1.9. "Media Material" shall mean text, audio, video, image or graphics in any form, stored, saved, imbedded or transmitted in any form (Such as but not limited to drawings/illustrations, photos, maps, audio recording, Phone and video call recording and video recordings such as in the form of, paper, electronic, film, usd, hard drive, email, dvd, cd, mobile phone etc.)

1.10. "Professionally Unmanageable" shall mean at the sole discretion of the Contractor, its association, relationship, individual, or party (set out in clause 1.2) has become unmanageable to a point where a professional relationship can no longer continue and must be terminated.

1.11. "Equipment" shall mean any tool, machinery or hired Equipment including the hire and delivery cost required to complete the Works for the Client in conjunction with section 5.0 and 5.11.

1.12. "Border Crossing" shall mean any crossing of a designated controlled boundary such as but not limited to a state, territory, area, zone, province or Country.

1.13. Unless the contrary intention appears in this Contract, works in this Contract shall have their normal meaning.

1.14. Headings are inserted for convenience and do not affect the interpretation of this Contract.

1.15. The singular includes the plural and vice versa.

1.16. "E-Sign" allows a person to satisfy a legal requirement for a manual signature by using an electronic communication, as allowed under The Electronic Transactions Act 1999.

1.17. "Disclosures" billing statements and disclosures, including, but not limited to, E-Sign Contract, the Privacy Policy, the Terms and Conditions of Trade, and any federal and state tax statements, quote, invoices and documents.

2. Jurisdiction

2.1. The Parties agree that the applicable and governing law of these Terms and Conditions of trade or any Contract or Dispute shall be the laws of Queensland, Australia.

2.2. These terms and conditions and any contract to which they shall be governed by the laws of Queensland, Australia and are subject to the jurisdiction of the courts of Queensland Australia.

2.3. The Parties agree any claim made by either party against the other which in any way arises out of these terms and conditions of trade will be heard in Queensland, Australia and you agree to submit to the jurisdiction of those Courts of Queensland, Australia.

3. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Act ("FTA")

3.1. Nothing in this agreement shall be taken to limit or restrict the application of any applicable provisions of the TPA or the FTA in each of the States and Territories of Australia, except to the extent permitted by those Acts which apply to the Territory of Queensland, Australia.

4. Acceptance and Consent

4.1. Any instructions received by the Contractor from the Client for the supply of Works and Equipment under the Client's acceptance of Works and Equipment supplied by the Contractor shall constitute acceptance of the terms and conditions contained herein.

4.2. Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.

4.3. Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of the Contractor.

4.4. The Client shall give the Contractor not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any other person or entity. The Client shall be deemed to have accepted the Contractor's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by the Contractor as a result of the Client's failure to comply with this clause.

4.5. The Contractor may, but is not limited to, use the Client's name and details for the promotion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.

4.6. Any purchase or any product or booking of any service and/or accepting an invoice in the process, by making payment or ticking the box: "I/we have read and have the authority to agree, and by ticking this box do agree, to the Terms and Conditions of Trade, Privacy Policy and E-Sign Consent (including agreement to dispute resolution by arbitration)" consent and agree that:

(a) the Contractor shall have the same effect as if the Client or Subcontractor signed yourself in person the agreements in ink, which would constitute a valid signature;

(b) You can send all communications, billing statements and disclosures, including, but not limited to, this E-Sign Consent, the Privacy Policy, the Terms and Conditions of Trade, and any federal and state tax statements, quote, invoices and documents (collectively they are referred to as "Disclosures") to the Client or Subcontractor electronically (i) via email or (ii) by access to a website that the "contractor" designate in an email notice the Contractor send to the Client or Subcontractor at the time the information is available, by access to a website that the Contractor generally designates in advance for such purposes.

(c) Paper Disclosures will no longer be given to the Client or Subcontractor;

(d) The Client or Subcontractor will regularly check the Client or Subcontractor electronic communications (including, but not limited to, email) for Disclosures;

5. Price And Payment

5.1. At the Contractor's sole discretion the Price shall be either:

(a) as indicated on invoices provided by the Contractor to the Client in respect of Works and Equipment supplied; or

(b) the Contractor's current price at the date of delivery of the Works and Equipment according to the Contractor's current Price list; or

(c) the Contractor's quoted Price (subject to clause 4.2 and 4.3) which shall be binding upon the Contractor provided that the Client shall accept the Contractor's quotation in writing within thirty (30) days.

5.2. The Contractor reserves the right to change the Price in the event of a variation to the Contractor's quotation.

5.3. The Contractor reserves the right to add additional charges to the Price in accordance with clause 24.1 and clause 25.1(a) at any time.

5.4. Any variation from the price of scheduled Works or specifications (including, but not limited to, any variation as a result of additional Works required or additional Equipment required due to Subcontractor's delay or unidentifiable difficulties beyond the reasonable control of the Contractor such as hard rock barriers below the surface, super saturated soils, issues with dispersive days or iron reinforcing rods in concrete) will be detailed in writing and charged for on the basis of the Contractor's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at the time of completion.

5.5. At the Contractor's sole discretion a deposit may be required.

5.6. Time for payment for the Works and Equipment shall be of the essence and will be stated on the invoice or any other terms. If no time is stated then payment for domestic/residential Client's shall be due seven (7) days following the date of the invoice.

5.7. At the Contractor's sole discretion:

(a) payment shall be due on completion of the Works; or

(b) payment shall be due before completion of the Works; or

(c) payment shall be due before the start of the Works; or

(d) payment for approved Client's shall be made by instalments in accordance with the Contractor's payment schedule.

5.8. The Contractor may submit a detailed payment claim at intervals for Works performed up to that point. The value of Works and Equipment so performed shall include the reasonable value of authorised variations and the value of Works and Equipment delivered to the site but not yet installed.

5.9. Payment will be made by credit card (subject to a surcharge of three percent (3%) of the Price), or by PayPal (plus a surcharge of three percent (3%) of the Price), or by direct credit, or by any other method as agreed between the Client and the Contractor.

6.10. GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

6.11. All Equipment hire costs incurred by the Contractor to complete the Works whether planned or not planned due to unforeseen circumstances are the responsibility of the Client to pay.

6.12. The Contractor may add any additional charges to the Equipment hire costs for hiring the Equipment on behalf of the Client. The Contractor may charge out the hire. Equipment to the Client in a manner that the Contractor sees fit irrespective of what the days, hours, number of days, or moneys the Contractor has been charged for by the hiring contractor.

6.13. All fees associated with Works that are the sole responsibility of the Client to pay. (See Section 8.3.1.4 and 14.5.)

6.14. Legal and Witness Fees: If the Contractor is subpoenaed, ordered, or requested to provide documents, attend court, provide an affidavit, or give evidence in any legal proceeding, dispute, or investigation relating to the Works or the Client, the Client agrees to compensate the Contractor for all time spent preparing and attending. This time will be charged at the Contractor's standard commercial rate of \$1,200/AUD (ex GST) per day (charged in full day blocks), plus all associated and reasonable expenses.

6.15. Underground, Aboveground and Overhead Services Location

6.16. Prior to the Contractor commencing any Works the Client must advise the Contractor of the precise location of all underground, aboveground and overhead services to be located and clearly mark the same. The underground, aboveground and overhead mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connectors, sewer sludge mains, water mains, irrigation pipes, Telstra cables, fibre optic cables, od pumping mains, and any other services that may be on site.

6.17. The Contractor reserves the right to change the Price in the event of a variation to the Contractor's quotation. The Client agrees to indemnify the Contractor in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 6.1.

7. Relationship

7.1. The Contractor will provide the Services as an independent contractor and nothing in this Contract will be construed to constitute: At the Contractor's sole discretion:

(a) the Contractor as an employee of the Contractor; or

(b) a partnership between the Parties; or

(c) either Party as the agent or legal representative of the other Party.

7.2. The Contractor may terminate the relationship at any time at the Contractor's sole discretion.

7.3. The Contractor reserves the right to not conform to the local, spiritual, beliefs, lifestyle, practices and dietary requirements of the property and/or location of Works, while the Contractor will remain respectful.

7.4. If Accommodation is provided on the site of Works by or at the Client's property or Client's residence the Client will respect the privacy of the Contractor within the sleeping Accommodation and after working hours.

8. Delivery of Works

8.1. At the Contractor's sole discretion delivery of the Works shall take place when the Client takes receives the Works at the Client's nominated address. The costs of delivery are included in the Price.

8.2. The Client shall make all arrangements necessary to take delivery or return of the Works and/or Equipment whenever the Client is notified to do so. The Client shall be responsible for the transport of the Works and/or Equipment as arranged, then the Contractor shall be entitled to charge a reasonable fee for redelivery or subsequent Equipment collection attempts to or from the Client.

8.3. The Contractor shall not be liable for any loss or damage caused in accessing the work site beyond reasonable control of the Contractor (including, without limitation, damage to pathways, driveways and concrete or paved or grassed areas).

8.4. Delivery and Return of the Works and/or Equipment to a third party nominated by the Client is deemed to be delivery of the Works to the Client in accordance with this agreement.

8.5. The Contractor may deliver the Works by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

8.6. The Client shall take delivery of the Works tendered notwithstanding that the quantity so delivered shall be either greater or lesser than the quantity purchased provided:

(a) such discrepancy in quantity shall not exceed five percent (5%); and

(b) the Price shall be adjusted pro rata to the discrepancy.

8.7. The failure of the Contractor to deliver shall not entitle either party to treat this contract as repudiated.

8.8. The Contractor shall not be liable for any loss or damage whether (private or business related) due to failure by the Contractor to deliver the Works (or any them) and/or Equipment promptly or at all, or from failure of Works or Equipment, for any reason.

8.9. The Client may require the Contractor to suspend provision of the Services (or any part) at any time and for any reason. The Contractor shall notify the Contractor if may resume provision of the Services affected and the Contractor shall resume as soon as reasonably practicable after being given such notice. The Client will be liable for any costs which the Contractor is under suspension.

8.10. Should the Contractor be required to suspend the Services (or any part) then the Client is not liable for the associated costs until the services are resumed. With the exception of any hired equipment that is required for the Works, which the Client is liable to pay. The Client has no claim to breach for this period.

8.11. Any delivery of Works that include any earthworks that is not suitable to take delivery or return of the Works and/or Equipment as arranged, then the Contractor shall be entitled to charge a reasonable fee for redelivery or subsequent Equipment collection attempts to or from the Client.

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