

1. PROJECT AGREEMENT

- 1.1 The Agreement, including these General Terms and Conditions, any exhibits and annexure to the Agreement, constitute the entire agreement between you and us in respect of the matters dealt in the Agreement and supersedes all prior communications and representations, inducements, undertakings, agreements or arrangements in respect of the matters dealt with in this Agreement. No Party shall, after the date of execution of this Agreement, be entitled, as against any other Party hereto, or the officers of any such Party, to bring suit on the basis of any verbal or written communications, representations, inducements, undertakings, agreements or arrangements except expressly as provided by this Agreement.
- 1.2 By signing the Agreement, you agree to be bound by these General Terms and Conditions and no such Agreement will be construed as giving effect to a contractual relationship between you and us until we confirm our acceptance of your offer by signing the Agreement.
- 1.3 If you are a Corporation as defined under section 9 of the *Corporations Act 2001* (Cth), each director of your company agrees that he or she will:
- (a) receive a personal benefit as a result of our Services provided to you;
 - (b) be our client under this Agreement;
 - (c) be jointly and severally liable with your company for performance of your obligations under this Agreement.
- The directors of your company who sign the Agreement represent that they are authorised to do so on behalf of your company and on behalf of any other directors regardless of whether they are specifically named in the Agreement.
- 1.4 We may amend these General Terms and Conditions from time to time at our discretion. A new version of General Terms and Conditions will become effective as soon as they are made available on our website.
- 1.5 Any changes to the General Terms and Conditions made in accordance with sub-clause 1.4 will not affect the Agreement entered into by you before the changes are made.

2. DELIVERY AND ACCESS TO SITES

- 2.1 You acknowledge that the Goods or Services are delivered directly by us subject to clause 8 and 9 unless otherwise specified in the Agreement.
- 2.2 We will use all reasonable endeavours to arrange for the Goods or Services to be delivered to the Sites on the Delivery Date which may change without prior notice to you.
- 2.3 We may need access to the Sites. You must use all reasonable endeavours to comply with our requirements and do everything that is reasonably necessary to give us full and safe access to the Sites for the purpose of carrying out our obligations under the Agreement including delivering the Goods or Services to the Sites. If we are unable to access the Sites for any reasons other than through our own fault, then you acknowledge that the Delivery Date may be delayed.
- 2.4 If you fail to accept the delivery or if we are unable to deliver the Goods or Services to the Sites on the Delivery Date due to your failure to comply with your obligations under this clause 2, we may incur additional costs for which you will be liable.

3. PRICES AND PAYMENT

- 3.1 The Price for the Goods or Services will be specified in the Agreement.
- 3.2 At our sole discretion, we may require you to pay us a Deposit prior to us commencing any works.
- 3.3 The Price is subject to change by us to take into account any error or omission by us or any GST or government or statutory charges, taxes and duties which may become applicable after the Price is quoted in the Agreement.
- 3.4 You must pay the Price without set-off in accordance with the payment terms in the Agreement and in the absence of such payment terms within 14 days of the date of the invoice.
- 3.5 At our discretion, we may invoice you periodically for progressive payment or at the completion of our obligations under the Agreement.
- 3.6 If you request for any variation of the scope or specification of the Goods or Services after the Agreement is signed, the variations will be shown in the invoice and you must also pay for any additional fees and charges in respect of the variations.
- 3.7 Save and except for the cash payment, any other form of payment will not be deemed to be payment until it is honoured, cleared or recognised.
- 3.8 If any monies payable under the Agreement remains unpaid by the due date, you may be charged:

- (a) an interest on the outstanding amount at 2% above the rate charged by our principal banker; and
 - (b) \$50 administration fee.
- 3.9 You must pay us in accordance with this clause regardless of whether or not you have been reimbursed by the Water Authority.
- 3.10 You agree that if any account remains unpaid for 60 days from the date of the invoice any real estate owned by you will be charged with the amount set out in the unpaid account together with any accrued interest, our legal fees or expenses incurred by us in respect of the unpaid account.

4. GOODS AND SERVICES TAX

- 4.1 Expressions used in this clause and in the GST Act have the same meaning as when used in the GST Act.
- 4.2 In addition to the payment for the Goods or Services, you must also pay the GST payable in respect of the Goods or Services.
- 4.3 You are not obliged to pay the GST until we give you a valid tax invoice.

5. RISK AND TITLE

- 5.1 Risk of loss or damage to the Goods passes to you on delivery.
- 5.2 Upon delivery of the Goods we strongly recommend that you insure the Goods against all risks of loss or damage in the amount equal to the amount payable by you under the Agreement.
- 5.3 The property and title in the Goods do not pass to you until all payments required under the Agreement are paid in full.
- 5.4 If the payment for the Goods and the Services is not made in full in accordance with the Agreement, we may enter the Sites to take possession of the Goods and you cannot make any claim against us for any loss or damage you may suffer as a result of us taking possession of the Goods.

6. CANCELLATION AND RETURNS

- 6.1 If you cancel the Agreement you will be liable to pay for all costs, charges or expense incurred by us up to the time of cancellation which must be paid within 14 days of us making a demand of payment from you.
- 6.2 Within 14 days of the cancellation you must also return to us any Goods which may have been supplied to you under the Agreement notwithstanding that you may have made partial payment of the Price.

7. SUB-CONTRACTING

- 7.1 We may license or sub-contract a third party for all or any part of our rights or obligations under the Agreement including delivery of the Goods or performance of Services without your consent.
- 7.2 You must not sub-contract a third party for the performance of the Agreement without our prior written consent which may be withheld at our sole discretion.

8. LIMITED WARRANTIES

- 8.1 We do not provide any warranty in relation to the Goods unless they are manufactured and supplied directly by us. Any Goods not manufactured by us are subject to the Manufacturer's warranty and you are responsible for obtaining the relevant Manufacturer's warranty.
- 8.2 If you wish to make any warranty claim in respect of the Goods, you must follow the warranty claim procedures set out by the Manufacturer.
- 8.3 We do warrant that:
- (a) all the Services will be provided to you in accordance with the Agreement and with due care, skills and diligence; and
 - (b) if there is any defect or fault in the Services, we will rectify the fault at our expense promptly provided that the defect or the fault is not caused by you.
- 8.4 Save and except for the express terms, conditions and warranties contained in these General Terms and Conditions and to the extent permitted by law including your rights under the Australian Consumer Law which cannot be excluded by these General Terms and Conditions, all other terms, conditions and warranties expressed or implied by statute, the common law, equity or otherwise howsoever are expressly excluded.

9. OUR LIABILITIES

- 9.1 Subject to clause 8, we are not liable for any loss or damage suffered by you including any consequential loss, damages or loss of profit as a result of:
- (a) any delay in delivering, or failing to deliver, the Goods or Services under the Agreement; and

- (b) any defect in, or any failure, malfunction, breakdown or deterioration of, the Goods or Services, and
- (c) this Agreement being terminated in accordance with clause 6 and 11, unless the loss or damage is caused by our negligence.

9.2 In any event, our liability will be limited to 50% of the Price.

10. YOUR LIABILITIES

- 10.1 You must indemnify us and keep us indemnified against all costs, liability, losses and claims incurred by us as a result of your breach of any of your obligations under the Agreement.
- 10.2 In particular, you acknowledge that pursuant to this Agreement we may enter into the Development Deed under which we have certain obligations to fulfill. You further acknowledge that if we cease work as a result of your breach of this Agreement, we may become liable under the Development Deed for failing to comply with our obligations under the Development Deed.
- 10.3 If this Agreement is cancelled or terminated in accordance with clause 6 or 11 then:
 - (a) we will notify the Water Authority of the termination of this Agreement;
 - (b) you agree to indemnify us against all costs, liability, losses and claims against us arising from, in respect of, or relating to, the Development Deed.
- 10.4 You will be liable for and pay our legal costs on a full Solicitor/own Client indemnity basis arising from or incurred as a consequence of the default by you including but not limited to the costs of any letters of demand or the Notices of Default and such payment is to be made to us within 7 days of receipt of an invoice from us for such costs.

11. TERMINATION OF AGREEMENT

- 11.1 If you are in breach of the Agreement, we will give you a Notice of Default setting out the nature of the breach and requiring you to rectify the breach within 14 days. A copy of the Notice will also be sent to the Water Authority. If you fail to remedy the breach within 14 days, we will give you another notice in writing terminating the Agreement effective immediately.
- 11.2 We may also terminate the Agreement by a written notice immediately if:
 - (a) you (being a corporation or a partnership) goes into liquidation, becomes or threatens to become or subject to any form of dissolutions, insolvency, receivership, administration or winding up;
 - (b) you (being a natural person, a partnership, or one of the persons who is a member of the partnership) commit any act of bankruptcy, are convicted of a serious offence, die or become unsound mind or infirm.
- 11.3 If we terminate the Agreement in accordance with this clause 11, then we may (without prejudice to any other legal remedies we may have):
 - (a) cease any work in progress;
 - (b) retain any moneys paid by you including the Deposit;
 - (c) charge a reasonable sum for any Goods or Services provided to you for which we have not invoiced; and
 - (d) seek additional legal remedies available to us.

12. DISPUTE RESOLUTION

- 12.1 If a dispute arises out of or in relation to the Agreement (including any dispute as to breach or termination of the Agreement), the Party may not commence any Court proceedings relating to the dispute (except for urgent interlocutory relief) unless it has complied with the following:
 - (a) Either Party may serve the other Party a dispute notice specifying the nature of the dispute.
 - (b) The Parties must endeavour in good faith to resolve the dispute expeditiously.
 - (c) If the dispute is not resolved within 10 days of the dispute notice then the Parties may refer the matter to the President of the Law Institute of Victoria to appoint a Mediator.
 - (d) The Parties must pay an equal share of the costs of the mediation to the Mediator and each Party agrees to indemnify the Mediator against liability in respect of the mediation of the dispute.

13. INTELLECTUAL PROPERTY

- 13.1 Unless otherwise specified in the Agreement:
 - (a) the title to all intellectual property rights in all documents, materials and information provided by you to us for the purpose and in the performance of the Services will remain with you at all time; and
 - (b) the title to all intellectual property rights in all documents, materials and information provided by us to you for the purpose and in the performance of the Services will remain with us at all time,

unless contrary intention is specified in the Agreement.

- 13.2 Any rights or licence to use the intellectual property rights granted by a Party to another Party will be non-exclusive, revocable and free of royalty or other payment.

14. CONFIDENTIALITY

14.1 Each Party undertakes and agrees that:

- (a) any Confidential Information of the other Party will be treated, preserved and maintained in strict confidence unless the disclosure is agreed to in writing or required by law;
- (b) it will not use any part of the Confidential Information for any purposes other than to comply with its obligations under the Agreement; and
- (c) it will ensure that its employees, agents and any sub-contractors comply with the sub-clause 14.1.

14.2 Upon termination of the Agreement:

- (a) each Party must deliver to the other Party, or destroy at the request of the other Party, all copies of or documents or computer files containing the other Party's Confidential Information and all materials related to it immediately and confirm in writing that it has done so.
- (b) the obligations under this clause will not merge and will continue in force.

15. PRIVACY

All information about you obtained by us will be maintained in accordance with Privacy Act. Please refer to our website www.lancogroup.com.au for further details.

16. GENERAL

16.1 Neither Party is liable for breach of any of its obligations under the Agreement as a result of any act of God, war, terrorism, strike, lockout, industrial action, fire, flood drought, storm or other event beyond the reasonable control of either Party.

16.2 The Agreement is to be governed by the laws of the State of Victoria. Any proceeding under or in connection with it must be taken in the appropriate Court in the State.

16.3 A provision of or a right created under the Agreement may not be waived or varied except in writing signed by the Parties.

16.4 Notwithstanding that the Agreement is intended to be fully binding and effective according to its terms each of the Parties hereto shall procure each of their servants, agents or sub-contractors to, sign, execute and deliver all such assurances, deeds, documents, instruments and writings and shall do and shall procure to be done all such other acts and things as may be necessary or desirable to give full and better effect to the Agreement.

16.5 If any clause, sub-clause, paragraph, sub-paragraph or part thereof of this Agreement is held or found to be void, invalid or otherwise unenforceable, it shall be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of the Agreement will remain in full force and effect.

16.6 Any notice given pursuant to the Agreement must be given in writing and it will be deemed served or given:

- (a) if personally served by being left at the address of the Party to whom the Notice is given between the hours of 9:00 am and 5:00 pm on any business day, then in such case at the time the Notice is so delivered;
- (b) if sent by fax, then in such case when successfully transmitted provided that if the fax is transmitted outside business hours, then when business hours next commence.

17. DEFINITIONS

In our general terms and conditions:

Agreement	means the project agreement, quotation, a purchase order form containing details of the Goods and Services to be supplied including but not limited to the price and description of the Goods, scope of the Services, payment terms, return policy, warranties and confidentiality provision.
Australian Consumer Law	means <i>Competition and Consumer Act 2010 (Cth)</i> and related regulations.
Confidential Information	means all information passing in between you and us relating to the performance of our respective obligations under the Agreement including but not limited to trade secrets, trademark and patent applications, drawings, know-how, techniques, source and object code, licences, arrangements and contracts with third parties, customer information, formulae, customer lists, concepts not produced in material form, designs,

plans and models and without limitation includes:

- (i) information designated as confidential by a Party;
- (ii) information imparted in confidence to a Party by the other Party;
- (iii) any evaluation made by or on behalf of a Party, including all minutes, notes, papers, communications and other records capable of being reproduced;
- (iv) any other information capable of being classified by equity as Confidential Information,

but does not include information:

- (v) disclosed by a Party to its professional advisers, but only to the extent that it is necessary for the Party to disclose Confidential Information in order that it may fulfill its obligations under the Agreement; or
- (vi) disclosed under a Court order or Legislation; or
- (vii) which a Party has agreed in writing is not Confidential Information; or
- (viii) which comes into the public domain other than by a breach of the Agreement by a Party or its agents; or
- (ix) independently known or developed by a Party.

Delivery Date	means the estimated date (or a schedule of dates as the case may be) of delivery of Goods or Services as specified in the Agreement.
Deposit	means the an amount equal to 30% of the total Price.
Development Deed	means the deed between the Water Authority, you, us and any other party involved in a development project.
Goods	means any goods which we, or through a third party we engage, provide to you in conjunction with the Services as specified in the Agreement
GST	means GST within the meaning of the GST Act.
GST Act	means <i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> .
Manufacturer	means a manufacturer of the Goods.
Mediator	means an impartial third party who is engaged or appointed to assist the Parties in exploring options for resolution of conflicts
Notice of Default	means a written notice given by us to you in accordance with clause 11.1.
Order	means an order for the supply of the Goods or Services.
Party	means we or you.
Price	means the price for the Goods or Services as specified in the Agreement.
Privacy Act	means <i>Privacy Act 1988 (Cth)</i>
Services	means the services provided to you directly by us as specified in the Agreement including but not limited to preliminary investigations, feasibility studies, cost estimates, preparation of design plans for civil and structural works, contract documentation, administration, supervision and project management.
Sites	means the sites or address nominated by you for the delivery of the Goods or Services.
Water Authority	means a water authority under a Development Deed
We	means Lanco Group Pty Ltd (ACN 081 807 043) and its employees, agents and sub-contractors.
You	means the customer or client and their directors (if client is a corporation) with whom we enter into an agreement for the supply the Goods or Services.
