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# Enspire Consulting Limited - Terms and Conditions of Trade

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## 1 Definitions

- 1.1 "Enspire" shall mean Enspire Consulting Limited and includes any person acting on behalf of and with the authority of Enspire.
- 1.2 "Customer" shall mean the customer (or any person acting on behalf of and with the Customer's authority).
- 1.3 "Guarantor" means that person (or persons) or entity who agrees to be liable for the debts of the Customer on a principal debtor basis.
- 1.4 "Reports" includes but is not limited to written analyses, reports and any written material supplied by Enspire to the Customer.
- 1.5 "Services" shall mean planning, environment science and project management services supplied by Enspire to the Customer including the drafting of Reports and includes any advice or recommendations or any other services supplied by Enspire to the Customer.
- 1.6 "Price" shall mean the price payable for the Services as agreed between Enspire and the Customer.

## 2 Acceptance

- 2.1 Any instructions received by Enspire from the Customer for the supply of Services and/or the Customer's acceptance of Services supplied by Enspire shall constitute acceptance of these terms and conditions.

## 3 Customer Vetting

- 3.1. Enspire reserves the right to conduct a vetting process prior to accepting any new client engagement. This process may include, but is not limited to, verification of identity, business registration, creditworthiness, and professional reputation.
- 3.2. The Customer may be required to provide documentation or information to support the vetting process, including but not limited to, proof of identity or company registration, financial statement or credit references, and details of key personnel or directors.
- 3.3. Enspire reserves the right to decline or terminate an engagement if the vetting process reveals concerns that may affect the integrity or viability of the professional relationship.
- 3.4. All information collected during the vetting process will be handled in accordance with Enspire's Privacy Policy and the New Zealand Privacy Act 2020.

## 4 Price and Payment

- 4.1 The Price shall be as indicated on invoices provided by Enspire to the Customer in respect of Services.
- 4.2 Payment of the Price will be required by the 20<sup>th</sup> of the month in which the invoice is received by the Customer, time being of the essence.
- 4.3 The Customer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Customer by Enspire.
- 4.4 Where this agreement has been entered into by an agent (or a person purporting to act as agent) on behalf of the Customer, the agent and the Customer shall be jointly and severally liable for payment of all fees and expenses due to Enspire under this agreement.
- 4.5 Where Services are carried out on a time charge basis, Enspire may purchase such incidental goods and/or services as are reasonably required for Enspire to perform the Services. The cost of obtaining such incidental goods and/or services shall be payable by the Customer. Enspire shall maintain records which clearly identify time and expenses incurred.
- 4.6 Enspire reserves the right to request a deposit prior to commencing services. This will be determined on a case-by-case basis and clearly stated in the offer of service. The deposit amount, if applicable, will be specified in writing and must be paid before any work begins.
- 4.7 Enspire accepts payment via bank transfer and online via credit card. Online credit card payments are processed through a secure third party payment gateway.

- 4.8 Where payment is made online by credit card, a processing surcharge of 2.7% plus NZ\$0.30 will be applied to each credit card transaction. This surcharge reflects the cost of merchant service fees and transaction handling. The surcharge will be itemised on the invoice and added to the total amount payable. This surcharge is subject to change at Enspire's discretion in response to changes in third-party processing fees or other relevant costs. Any changes to the surcharge will be communicated to the Customer in writing at least 14 days prior to taking effect.

## 5 Delivery of the Services

- 5.1 The Customer shall provide to Enspire as soon as practicable following any request for information, all information in their power to obtain which may relate to the Services. The Customer warrants to Enspire that any information it provides to Enspire is not subject to copyright and indemnifies Enspire from all action, claims or demands which may be made against Enspire in connection with use of copyrighted material.
- 5.2 The Customer may order variations to the Services in writing or may request Enspire to submit proposals for variation to the Services. Where Enspire considers a direction from the Customer or any other circumstance is a variation Enspire shall notify the Customer as soon as practicable.
- 5.3 The Customer may suspend all or part of the Services by notice to Enspire which shall immediately make arrangements to stop the Services and minimise further expenditure.

## 6 Liability and Indemnity

- 6.1 If the Customer is acquiring the Services for the purposes of a business, the Customer acknowledges that the provisions of the Consumer Guarantees Act 1993 are excluded in relation to the Services.
- 6.2 Enspire will not be liable to the Customer or any other party for consequential, special, punitive or exemplary loss, damage or liability arising directly or indirectly out of or related to the provision, performance of or failure to perform the Services whether in contract, tort (negligence), for breach of statutory duty or any other principle of legal liability.
- 6.3 The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, shall not exceed the fee paid for the Services (exclusive of GST and disbursements) with a maximum liability of NZ\$1,000,000.
- 6.4 Without limiting any defence, a party may have under the Limitation Act 2010, Enspire shall not be liable for any loss or damage resulting from any occurrence unless a claim is formally made within six years from completion of the Services.
- 6.5 Enspire shall take out and maintain for the duration of the Services a policy of Professional Indemnity Insurance for the amount of liability under clause 5.3.

## 7 Intellectual Property

- 7.1 The Customer agrees that any new Intellectual Property will be solely owned by Enspire, which grants the Customer a royalty-free licence in perpetuity to use the new Intellectual Property. Enspire reserves the right to withdraw, upon written notice to the Customer, the royalty-free licence granted to the Customer in the event of the Customer defaulting on payment of an invoice.

## 8 Default and Consequences of Default

- 8.1 A grace period of 7 calendar days from the invoice due date will apply before any penalties are enforced.
- 8.2 If the defaulted payment is still due after the grace period, the Customer shall:
  - a. pay a fixed administration fee of NZ\$20 per overdue invoice; and
  - b. pay a fixed late payment fee of NZ\$20 per invoice for overdue amounts of under NZ\$1,000; or
  - c. pay default interest on overdue amounts of NZ\$1,000 or greater, compounded interest will apply at a rate of 2.5% per calendar month, calculated monthly from the original due date until payment is received.

- 8.3 Continued non-payment beyond 30 calendar days may result in suspension of services and referral to debt collection, as outlined in Enspire's default provisions. In this case of debt collection services being sought, the Customer shall:
- be liable for all costs and disbursements incurred by Enspire in pursuing the debt including costs of any security under clause 8.1.
- 8.4 Without prejudice to Enspire's other remedies at law Enspire shall be entitled to cancel any Services which remains unfulfilled and all amounts owing to Enspire shall, whether or not due for payment, become immediately payable in the event that:
- any money payable to Enspire becomes overdue; or
  - the Customer becomes insolvent, 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
  - a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer.

## **8. Security and Charge**

- 8.1 The Customer and the Guarantor(s) (if any) acknowledge and agree:
- where the Customer and/or the Guarantor (if any) is the owner of land, realty or other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their interest in such land, realty or any other asset to Enspire to secure all amounts payable under these terms and conditions;
  - to irrevocably nominate, constitute and appoint Enspire or Enspire's nominee as the Customer's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 8.1.

## **9. Health and Safety**

- 9.1 Enspire has not and will not assume any obligation as the Customer's agent or otherwise which may be imposed upon the Customer from time to time pursuant to the Health and Safety at Work Act 2015 (the "Act") arising out of this engagement. Enspire and the Customer agree that in terms of the Act, unless the work is being conducted upon Enspire's premises, Enspire is not the entity who controls the place of work.

## **10. General**

- 10.1 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.
- 10.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.
- 10.3 Enspire may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 10.4 Enspire reserves the right to review these terms and conditions at any time. If following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which Enspire notifies the Customer of such change.
- 10.5 The failure by Enspire to enforce any provisions of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Enspire's right to subsequently enforce that provision.
- 10.6 The parties shall attempt in good faith to settle any dispute by mediation.

## **Acceptance**

I/We confirm that I/we have read and accept these terms and conditions. Signed by the Customer as principal debtor and (where appropriate) as Guarantor of the principal debtor's obligations:

Customer authorised signatory: \_\_\_\_\_

Print name: \_\_\_\_\_

Date: \_\_\_\_\_