

1. NATURE OF AGREEMENT

- a) The contract between Protek Carpentry & Fencing Services Pty Ltd (ACN 158937761) trading as Protek 24/7 Building & Maintenance Services (Protek) and the supplier detailed in the Purchase Order (Supplier) relating to:
 - i) any products, materials, equipment, parts or other ancillary items ordered by and/or supplied to Protek pursuant to the Purchase Order (Supplier Products) and/or
 - ii) installation, maintenance, consulting or other such services supplied to Protek pursuant to the Purchase Order (Services)
- b) or other transactions, are subject to these terms and conditions and the order document attached (if any) (Purchase Order) (together the Contract).
- c) The quantity, quality, description and specification of the Supplier Products and/or the scope and description of the Services is, unless otherwise agreed, as set out in the Contract.
- d) The Contract becomes binding on both Parties as soon as accepted by the Supplier expressly or by commencement of work.
- e) Both Parties acknowledge that the Contract may not be varied except as agreed in writing. Where Protek requires any variation to the Supplier Products or Services, the parties must negotiate in good faith a reasonable variation to the Contract, failing which Protek may cancel that part of the Contract no longer required.
- f) The Supplier has reviewed any information supplied by Protek for the purposes of the Contract and acknowledges that no warranty is given in relation to the information and the Supplier accepts responsibility for any use of the information.
- g) The parties acknowledge that the Supplier is an independent contractor, has no powers of agency for or on behalf of Protek, operates independently of Protek and does not have any exclusive rights of supply.
- h) The Supplier undertakes to maintain confidentiality in relation to the Contract, its performance under the Contract and any information it becomes privy to as a result of this Contract or its performance. The Supplier must not publish or advertise in relation to the subject matter of this Contract except with express permission of Protek.

2. DELIVERY OF SUPPLIER PRODUCTS AND/OR SERVICES

- a) The Supplier must perform the Services and/or deliver the Supplier Products by the Delivery Date or Delivery Dates.
- b) Delivery will be deemed complete if the Supplier Products are delivered and/or the Services are performed, on or before the Delivery Date and in accordance with the terms of the Contract.
- c) The Supplier acknowledges and agrees that time is of the essence for the performance of the Services and/or the delivery of the Supplier Products.
- d) Protek may terminate the Contract for delay, failure or inability to deliver the Supplier Products to the Site and/or perform the Services on or before the Delivery Date.
- e) Where the Supplier is responsible for its own installation of the Supplier Products then the Supplier shall, at the option of Protek, have reasonable access to the Site.
- f) Unless otherwise provided for in the Contract the Supplier shall pay all transport costs associated with the delivery of the Supplier Products.
- g) If the Supplier uses pallets in the delivery of the Supplier Products, the pallets used shall remain the property of the Supplier and the Supplier shall remove the pallets at its own cost immediately following delivery of the Supplier Products.
- h) Title in the Supplier Products passed upon the earlier of payment or delivery. Risk in the Supplier Products remains with the Supplier until delivery.

3. PRICE AND INVOICES

- a) The price of the Supplier Products and/or Services shall be as set out in the Purchase Order (Price), and the Price shall include all costs associated with delivery to the Site.
- b) The Supplier will provide to Protek its tax file number, ABN and any information required for any GST purposes prior to any dealings.
- c) The Parties agree that any invoices issued by the Supplier shall be inclusive of GST and government taxes, and shall be a tax invoice for the purposes of GST.
- d) All invoices must be sent to accounts@protek247.com.au and must include the job number, purchase order number, site address, a description of the Supplier Products or Services that have been delivered and the value of same, and any other information reasonably required by Protek.
- e) Protek reserves the right to return to the Supplier any invoice issued pursuant to the Contract which it does not consider to be properly rendered. Invoices are valid from the date of receipt by Protek of a properly constituted invoice.
- f) The Supplier shall have no right to submit a claim for payment or a right to payment in the event that the Supplier is in breach of the Contract, has failed to provide evidence of currency of insurances or has failed to provide any safety documents required by this Contract to be provided.
- g) All valid invoices received in a calendar month are deemed to have been submitted on the last day of that calendar month.

4. PAYMENT

- a) Invoices submitted to Protek are payable only in Australian dollars.
- b) Unless prior arrangements have been made, payment for Supplier Products and/or Services must be made in full within 30 days of the end of the calendar month in which the relevant invoice was issued.
- c) Unless otherwise agreed in writing by Protek no deposit will be payable by Protek for any Supplier Products and/or Services and no security for payment will be provided by Protek to the Supplier prior to the supply of Supplier Products and/or Services.
- d) Protek reserves the right to set off or deduct from any money owed by it to the Supplier under the Contract, any amounts that Protek consider are due and owing.
- e) Unless otherwise agreed in writing by Protek in its sole discretion, no interest on overdue accounts will be charged by the Supplier.

5. RETURN OF SUPPLIER PRODUCTS OR PERFORMANCE OF SERVICES

- a) All Supplier Products and Services must conform to the requirements of the Contract and the Supplier remains liable for any breach of this warranty notwithstanding any provision of the Contract providing additional rights or remedies.
- b) Protek reserves the right to require police clearances for any of the Suppliers' personnel who is to be or has been given access to any site by Protek.
- c) Any Supplier Products claimed by Protek to be defective may, within 12 months of the Delivery Date, be returned to the Supplier at the sole cost and risk of the Supplier, and if payment has been made by Protek for the provision of those Supplier's Products then the Supplier shall refund such money in full to Protek within 7 days of the date of return.
- d) Any Services claimed by Protek to be defective or in breach of this Contract, must, if so directed by Protek and at Protek's absolute discretion:
 - i) be re-performed by the Supplier within such time as Protek may reasonably require, at the sole cost of the Supplier; or
 - ii) any moneys paid by Protek to the Supplier for the provision of such Services are to be repaid in full to Protek immediately or any moneys payable by Protek to the Supplier for the provision of such Service, which moneys remain unpaid, are to be waived by the Supplier in full.

6. LIABILITY AND INDEMNITY

- a) The Supplier acknowledges that in the event of a delay beyond the Delivery Date in the performance of any of the Supplier's obligations pursuant to the Purchase Order or the Contract, Protek reserves the right to charge the Supplier the Penalty Fee for each day late following the Delivery Date that the Supplier fails to comply with its obligations.
- b) The Supplier indemnifies Protek against any Liabilities which Protek pays, suffers, incurs or is liable for with any third party in any way connected with any breach or default under these Terms or the Contract by the Supplier (including but not limited to any delay in providing or delivering the Supplier Products and/or Services), and the Supplier agrees to pay to Protek immediately on demand any such costs or Liability.
- c) Under no circumstances will Protek be liable to the Supplier for indirect losses.

7. INSURANCE

- a) The Supplier must take out, maintain and provide evidence of the currency of, upon request of Protek:
 - i) Public liability insurance of \$10m;
 - ii) Professional indemnity (for any design works, if applicable) and product liability insurance of \$5m;
 - iii) Workers compensation insurance, motor vehicle (including third party) insurance, insurance to cover the Supplier's equipment and any other insurances required by law or good practice;
 - iv) Goods in transit insurance for the Suppliers Products.
- b) The insurance policies under (i), (ii) and (v) above must name Protek as a co-insured and contain a cross-liability clause that waives all rights of subrogation.

8. INTELLECTUAL PROPERTY

- a) The Supplier hereby assigns any Intellectual Property created in the course of performance of the Contract to Protek. Protek grants an irrevocable license to the Supplier to use such rights royalty free.
- b) The Supplier warrants that to the extent that it uses or proposes to use the Intellectual Property or others, it has acquired the right to do so and indemnifies Protek from any liability to any third parties arising from any infringement.

9. TERMINATION

- a) It is an event of termination (Termination Event) if:
 - i) the Supplier fails to complete the Services or delivery the Supplier Products by the Delivery Date stipulated in the Purchase Order;
 - ii) the Supplier breaches the Contract in a material respect and, in Protek's opinion, the breach cannot be remedied, or if the breach can be remedied in Protek's opinion and the Supplier does not remedy the breach within 14 days after Protek gives the Supplier notice of the breach;
 - iii) has an adverse credit record entry for a sum of more than \$100,000; commits any act of insolvency; ceases, or threatens to cease, to carry on business; the registration of the Supplier under the Corporations Act is cancelled or the Supplier ceases to be registered under the Corporations Act; or a mortgagee takes possession of any property or assets of the Supplier.
- b) If a Termination Event occurs, Protek may (without affecting the accrued rights and obligations of the Parties as at the date of termination) do all or any of the following:
 - i) terminate the Contract immediately by notice to the Supplier;
 - ii) suspend further deliveries of Supplier Products and/or the provision of Services under the Contract; and/or
 - iii) deduct from any moneys due or which may become due any amount due or recoverable from the Supplier under the provisions of the Contract.
- c) This Contract will automatically terminate if the head contract under which Protek is engaged to provide the Supplier Products or Services is terminated, and the Supplier will be entitled only to unavoidable costs incurred as a direct result of the termination.

10. HEALTH, SAFETY AND ENVIRONMENT

- a) The Supplier (at no cost to Protek) must abide by all Protek health, safety and environmental policies and those applicable to any site where Supplier Products are delivered or Services performed and must abide by all applicable legislation.
- b) Protek may require that personnel attend an induction (either online or in person), as a condition to access. No cost will be payable to the Supplier for compliance.
- c) All incidents must be reported within 24 hours to safety@protek247.com.au.