

LECTEL TERMS & CONDITIONS OF TRADE

1. Definitions

- 1.1 "Lectel" shall mean Lectel Consulting Pty Ltd and its successors and assigns.
- 1.2 "Client" shall mean the Client or any person acting on behalf of and with the authority of the Client.
- 1.3 "Guarantor" means that person (or persons), or entity who agrees herein to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Services" shall mean all services supplied by Lectel to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined below).
- 1.5 Goods" shall mean Goods supplied by Lectel to the Client.
- 1.6 "Services" shall mean all services supplied by the Seller to the Buyer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined supra).
- 1.7 "Price" shall mean the cost of the Services as agreed between Lectel and the Client subject to clause 4 of this contract.

2. Acceptance

- 2.1 Any instructions received by Lectel from the Client for the supply of Services and/or the Client's acceptance of Services supplied by Lectel shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Client has entered into this agreement, the Client's shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of Lectel.
- 2.4 None of Lectel's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of Lectel in writing nor is Lectel bound by any such unauthorised statements.
- 2.5 The Client undertakes to give Lectel not less than fourteen (14) days prior written notice of any proposed change in the Client'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).

3. Services

- 3.1 The Services are as described on the invoices, quotation, work authorisation or any other work commencement forms as provided by Lectel to the Client.

4. Price And Payment

- 4.1 At Lectel's sole discretion the Price shall be either;
- (a) as indicated on invoices provided by Lectel to the Client in respect of Services supplied; or
- (b) be Lectel's quoted Price (subject to clause 4.2) which shall be binding upon Lectel provided that the Client shall accept in writing Lectel's quotation within thirty (30) days.
- 4.2 Any variation from the plan of scheduled works or specifications will be charged for on the basis of Lectel's quotation and will be shown as variations on the invoice. Payment for all variations must be made in full at their time of completion.
- 4.3 At Lectel's sole discretion a deposit may be required. The deposit amount or percentage of the Price will be stipulated at the time of the order of the Goods and shall become immediately due and payable.
- 4.4 Time for payment for the Services shall be of the essence and will be stated on the invoice, quotation or any other order forms. If no time is stated then payment shall be on delivery of the Services.
- 4.5 Lectel may withhold delivery of the Services until the Client has paid for them, in which event payment shall be made before the delivery date.
- 4.6 At Lectel's sole discretion, payment for approved Clients shall be made by instalments in accordance with Lectel's delivery/payment schedule.
- 4.7 At Lectel's sole discretion, payment for approved Client's shall be due on thirty (30) days following the end of the month in which a statement is posted to the Client's address or address for notices.
- 4.8 At Lectel's sole discretion, for certain approved Clients payment will be due fourteen (14) days following the date of the invoice.
- 4.9 Payment will be made by cash on delivery, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Client and Lectel.
- 4.10 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by Lectel.

5. Delivery Of Services

- 5.1 Delivery of the Services shall be made to the Client's address. The Client shall make all arrangements necessary to take delivery of the Services whenever they are tendered for delivery, or delivery of the Services shall be made to the Client at Lectel's address.
- 5.2 The costs of carriage and any insurance which the Client reasonably directs Lectel to incur shall be reimbursed by the Client (without any set-off or other withholding whatever) and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Client's agent.
- 5.3 Delivery of the Services to a carrier, either named by the Client or failing such naming to a carrier at the discretion of Lectel for the purpose of transmission to the Client, is deemed to be a delivery of the Services to the Client.
- 5.4 Delivery of the Services to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 5.5 The failure of Lectel to deliver shall not entitle either party to treat this contract as repudiated.
- 5.6 Lectel shall not be liable for any loss or damage whatever due to failure by Lectel to deliver the Services (or any of them) promptly or at all.

6. Risk

- 6.1 If Lectel retains property in the Services nonetheless, all risk for the Services passes to the Client on delivery.

7. Errors and Omissions

- 7.1 The Client shall inspect the Services on delivery and shall within seven (7) days of delivery notify Lectel of any alleged defect, shortage in quantity, errors, omissions or failure to comply with the description or quote. The Client shall afford Lectel an opportunity to inspect the Services within a reasonable time following delivery if the Client believes the Services are defective in any way. If the Client

shall fail to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.

- 7.2 For defective Services, which Lectel has agreed in writing that the Client is entitled to reject, Lectel's liability is limited to either (at Lectel's discretion) replacing the Services or repairing the Services provided that the Client has complied with the provisions of clause 7.1.

8. Client's Disclaimer

The Client hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any servant or agent of Lectel and the Client acknowledges that he buys the Services relying solely upon his own skill and judgement.

9. The Commonwealth Trade Practices Act 1974 and Fair Trading Acts

9.1 Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Trade Practices Act 1974 or the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

10. Intellectual Property

10.1 Where Lectel has designed or drawn Services for the Client, then the copyright in those designs and drawings shall remain vested in Lectel, and shall only be used by the Client at Lectel's discretion.

10.2 The Client warrants that all designs or instructions to Lectel will not cause Lectel to infringe any patent, registered design or trademark in the execution of the Client's order.

11. Default & Consequences Of Default

11.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.

11.2 If the Client defaults in payment of any invoice when due, the Client shall indemnify Lectel from and against all Lectel's costs and disbursements including on a solicitor and own client basis and in addition all of Lectel's nominees costs of collection.

11.3 Without prejudice to any other remedies Lectel may have, if at any time the Client is in breach of any obligation (including those relating to payment), Lectel may suspend or terminate the supply of Services to the Client and any of its other obligations under the terms and conditions. Lectel will not be liable to the Client for any loss or damage the Client suffers because Lectel exercised its rights under this clause.

11.4 If any account remains unpaid at the end of the second month after supply of the Services an immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable.

11.5 In the event that:

- (a) any money payable to Lectel becomes overdue, or in Lectel's opinion the Client will be unable to meet its payments as they fall due; or
- (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with its creditors, or makes an assignment for the benefit of its creditors; or
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client;

then without prejudice to Lectel's other remedies at law

- (i) Lectel shall be entitled to cancel all or any part of any order of the Client which remains unperformed in addition to and without prejudice to any other remedies; and
- (ii) all amounts owing to Lectel shall, whether or not due for payment, immediately become payable in addition to the interest payable under clause 11.1 hereof.

12. Title

12.1 It is the intention of Lectel and agreed by the Client that property in the Services shall not pass until the Client has paid all amounts owing for the particular Services.

12.2 It is further agreed that:

- (a) Until such time as ownership of the Services shall pass from Lectel to the Client Lectel may give notice in writing to the Client to return the Services or any of them to Lectel. Upon such notice the rights of the Client to obtain ownership or any other interest in the Services shall cease.
- (b) If the Client fails to return the Services to Lectel then Lectel or Lectel's agent may enter upon and into land and premises owned, occupied or used by the Client, or any premises as the invitee of the Client, where the Services are situated and take possession of the Services, without being responsible for any damage thereby caused.
- (c) Receipt by Lectel of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Lectel's ownership of rights in respect of the Services shall continue.
- (d) Lectel may require payment of the Price or the balance of the Price due together with any other amounts due from the Client to Lectel arising out of these terms and conditions, and Lectel may take any lawful steps to require payment of the amounts due and the Price.
- (e) Lectel can issue proceedings to recover the Price of the Services sold notwithstanding that ownership of the Services may not have passed to the Client.

13. Security And Charge

13.1 Despite anything to the contrary contained herein or any other rights which Lectel may have howsoever:

- (a) Where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to Lectel or Lectel's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Client and/or the Guarantor acknowledge and agree that Lectel (or Lectel's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all

payments and other monetary obligations payable hereunder have been met.

- (b) Should Lectel elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify Lectel from and against all Lectel's costs and disbursements including legal costs on a solicitor and own client basis.

(c) To give effect to the provisions of clause [13.1] (a) and (b) inclusive hereof the Client and/or the Guarantor (if any) do hereby irrevocably nominate constitute and appoint Lectel or Lectel's nominee as the Client's and/or Guarantor's true and lawful attorney to execute mortgages and charges (whether registrable or not) including such other terms and conditions as Lectel and/or Lectel's nominee shall think fit in his/her/its/their absolute discretion against the joint and/or several interest of the Client and/or the Guarantor in any land, realty or asset in favour of Lectel and in the Client's and/or Guarantor's name as may be necessary to secure the said Client's and/or Guarantor's obligations and indebtedness to Lectel and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in Lectel's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.

14. Cancellation

Lectel may cancel these terms and conditions or cancel delivery of Services at any time before the Services are delivered by giving written notice. Lectel shall not be liable for any loss or damage whatever arising from such cancellation.

At the Lectel's sole discretion the Client may cancel delivery of the Services. In the event that the Client cancels delivery of the Services the Client shall be liable for any costs incurred by Lectel up to the time of cancellation.

15. Privacy Act 1988

15.1 The Client and/or the Guarantor/s agree for Lectel to obtain from a credit-reporting agency a credit report containing personal credit information about the Client and Guarantor/s in relation to credit provided by Lectel.

15.2 The Client and/or the Guarantor/s agree that Lectel may exchange information about Client and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:

- (a) To assist an application by Client;
- (b) To notify other credit providers of a default by the Client;
- (c) To exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and
- (d) To assess the credit worthiness of Client and/or Guarantor/s.

15.3 The Client consents to Lectel being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

15.4 The Client agrees that Personal Data provided may be used and retained by Lectel for the following purposes and for other purposes as shall be agreed between the Client and Lectel or required by law from time to time:

- (a) provision of Services;
- (b) marketing of Services by Lectel, its agents or distributors in relation to the Services;
- (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to provision of Services;
- (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Client; and
- (e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Services.

15.5 Lectel may give, information about the Client to a credit reporting agency for the following purposes:

- (a) to obtain a consumer credit report about the Client; and/or
- (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

16. Lien

16.1 Where the Client has left any item with Lectel for repair, modification, exchange or for Lectel to perform any other Service in relation to the item and Lectel has not received or been tendered the whole of the Price, or the payment has been dishonoured, Lectel shall have:

- (a) a lien on the item;
- (b) the right to retain the item for the Price while Lectel is in possession of them;
- (c) a right of resale,
- (d) the foregoing right of disposal,

provided that the lien of Lectel shall continue despite the commencement of proceedings or judgement for the Price having been obtained.

17. General

17.1 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.

17.2 All Services supplied by Lectel are subject to the laws of Queensland and Lectel takes no responsibility for changes in the law which affect the Services supplied.

17.3 Lectel shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Lectel of these terms and conditions.

17.4 In the event of any breach of this contract by Lectel the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of Lectel exceed the Price of the Services.

17.5 The Client shall not set off against the Price amounts due from Lectel.

17.6 Lectel may license or sub-contract all or any part of its rights and obligations without the Client's consent.

17.7 Lectel reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which Lectel notifies the Client of such change.

17.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.