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# Standard Terms and Conditions

In these standard trading conditions we, us and similar expressions, refer to Moore Management Pty Ltd (ABN 13 069 821 478) and you, your and similar expressions, refer to you, our customer or proposed customer.

## 1 Proposals

- 1.1 A proposal submitted by us to you is merely an invitation to you to engage us. We issue proposals based on information supplied by you. If the information supplied by you is not correct, you may engage us to provide services that are not suitable for your purpose
- 1.2 If you offer to engage us to provide services based on a proposal, then your offer is subject to these conditions.
- 1.3 We are not obliged to accept an engagement from you. If you offer to engage us then our engagement becomes binding from the moment that we accept it even if we do not tell you that it has been accepted.
- 1.4 A proposal submitted by us to you is valid for a period of 90 days unless otherwise stated. After this period you may request a reconfirmation of the proposal.

## 2 Application of these conditions

- 2.1 These conditions apply to each supply of services by us to you, unless otherwise clearly agreed in writing signed by us and you.
- 2.2 If there is any conflict between these conditions and any special conditions referred to in a proposal, the terms of the proposal prevail.

## 3 Services

- 3.1 Broadly, the services we generally supply can be categorised as follows:
    - a. Bulk Fuel Farms & distribution systems
    - b. AST & UST installations
    - c. Small Bulk Oil Storage and Dispensers
    - d. Hose reel dispensing Stations
    - e. Bulk Vehicle Loading Stations
    - f. Fuel Filtration and Water Separation
    - g. Upgrades of existing fuel systems
    - h. Lubricant delivery systems
    - i. Compressed Air Systems
    - j. Steel Stairs, Walkways and Platforms
    - k. API Tank inspection and testing
    - l. Remediation Project Managers
    - m. AST and UST removal & disposal
    - n. In situ tank decommissioning
    - o. Contaminated Site Remediation, Treatment and Disposal
    - p. Groundwater Barrier Walls
    - q. Minor civil works
    - r. Asbestos Removal (ASI)
    - s. Demolition
  - 3.2 You may engage us to provide services for one or more of the above. Generally, we will provide you with a proposal in respect of any services and for each phase, which will set out the scope of works and services to be performed in more detail.
  - 3.3 We will not materially alter the scope of the services without your consent. In some instances, it may be difficult to specify the precise nature of the activities required to perform the services before the commencement of the work. If we consider during the provision of our services that a material change or addition will be required we will notify you of that change and enter into negotiations with you in good faith concerning any changes to the terms of the relevant proposal or scope of works.
- ## 4 Assurance of services
- 4.1 We agree to perform our services in a manner consistent with the level of skill, care and diligence exercised by members of the petrochemical construction, environmental, inspection and remediation professions.
  - 4.2 Where applicable, we employ the methods, procedures, techniques, personnel and sources of information set out in the relevant proposal but reserve the right to vary these at our discretion. Any significant variations will be undertaken in consultation with you.
- ## 5 Limitations of our services
- 5.1 Our services and each of the reports, surveys, opinions and other documents produced by us or on our behalf during the supply of our services to you are subject to the following limitations and any other limitations specified in the relevant report, survey, opinion or other document:
    - a. the relevant property including all components of the property including land, surface water, ground water and sediments (property) may contain contaminants which have not been detected while performing our services;

- b. by you or on your behalf and any conclusions or opinions expressed by us are only applicable as at the date on which the raw data on which that information is based was obtained;
- c. We rely on information provided by you and information from regulatory agencies. While an assessment of data reliability is made, we are not responsible or liable for errors in any data obtained from you or regulatory agencies, statements from you or third parties, or any matter outside the scope of the services to be performed by us; and
- d. We make no representation that the property is suitable or is not suitable for any particular use and make no representation that the property may be so lawfully used under planning law.

## 6 Reliance on results of our services

- 6.1 All reports, surveys, opinions and other documents produced by us or on our behalf during the supply of our services to you are treated by us as being confidential to you and will not be disclosed or passed by us to any third party without your prior consent. The exceptions are where the information or documentation has already been made public by you or have entered the public domain otherwise than through a breach of this condition by us, or the information or documentation is disclosed.
- 6.2 The reports, surveys, opinions and other documents referred to in condition 6.1 are prepared exclusively for you and are not to be provided to any other party without our prior written consent. We are not liable for claims by third parties to whom the contents of those reports, surveys, opinions and other documents are made known, directly or indirectly, by you. You indemnify us against any loss, damage, costs or expenses of whatsoever nature suffered by us or you in respect of a claim made by a third party.
- 6.3 In some circumstances, we may agree, at your request, to make a report, survey, opinion or other document referred to in condition 6.1 known to another party. If so, our consent must be given in writing and you must ensure that before the information is disclosed that the party enters into a reliance deed with us on terms satisfactory to us.

## 7 Fees - Time & expenses basis

- 7.1 Unless otherwise expressly stated in a proposal, the services we supply are to be charged on a time and expenses basis at our then current rates (as notified to you from time to time). We may increase our rates at our discretion and may charge you at our increased rates after we have given you 28 day's notice of the increase.
- 7.2 You must reimburse us for all expenses incurred by us in the performance of our services for you, including travelling time, travel, accommodation and living expenses of our personnel when away from their normal place of work, secretarial expenses, printing and reproduction costs, couriers and postage, professional and technical sub-contractors, graphic design, typesetting and artwork expenses, and expendable materials and supplies purchased specifically for the provision of the services. We may charge you a handling and administration fee equal to 15% of all the expenses chargeable to you.

## 8 Fees - Expert evidence

- 8.1 If you require us to provide written or oral evidence in relation to any legal proceedings, arbitration or public enquiry process, then our fees for providing that evidence and attending any meetings relating to the proceedings will be charged at our then current rates plus 50%.

## 9 Prices and Invoices

- 9.1 Unless otherwise expressly stated in a proposal, all prices are in Australian dollars and do not include any sales tax, goods and services tax, stamp duty and other excises and duties that may be imposed in relation to an agreement containing these conditions or the supply of our services. Each of them is payable by you and if paid by us must be reimbursed on demand.
- 9.2 Proposals may include levies imposed by local, state or federal regulators. Where a variation to these levies occurs, unless otherwise stated, these variations will be added to the proposal fee.
- 9.3 Invoices may be issued to you by post, fax or email.
- 9.4 Invoices will be issued regularly or on completion of the services.

## 10 Payments

- 10.1 Moore Management Pty Ltd may claim payment in accordance with the times set out in the accompanying letter or, if no time is set out, monthly in arrears. The Client must



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- pay to Moore Management Pty Ltd, without set-off or deduction:
- a. The amount payable under this Agreement for the Services provided during the relevant period, within 14 days of Moore Management Pty Ltd valid tax invoice; and
  - b. The GST payable under this Agreement for the services provided during the relevant period, within 7 days of receiving a valid tax invoice.
- 10.2 All payments must be by cash, bank cheque or EFTPOS.11
- 11 Overdue payments**
- 11.1 If any amount you owe us is not paid by the due date then:
- a. all money that you owe us on any account becomes immediately payable despite any previously agreed credit conditions;
  - b. we may suspend supply or cancel the performance of other services we have agreed to provide to you;
  - c. we may charge you interest on any amount from the due date until payment, calculated daily, at 10% per annum;
  - d. if we charge interest under this clause, we will credit any part payment first against the interest; and
  - e. you agree you are liable for all our costs, losses and expenses relating to recovering overdue payments from you, including mercantile agents' and lawyers' fees and expenses on a full indemnity basis.
- 12 Termination
- 12.1 You or we may terminate an agreement containing these conditions immediately by a written notice if the other party breaches these conditions and (if the breach is capable of remedy) fails to remedy it within 28 days after receipt of a written notice to do so. The notice must give particulars of the breach. A breach is considered capable of remedy if it can be remedied in all respects other than as to the original time of performance (if time for performance is not essential).
- 12.2 You are deemed to breach these conditions (in addition to any other way you might do so) if:
- 12.3 you become or threaten to become or are in jeopardy of becoming subject to bankruptcy or any form of insolvency administration;
- 12.4 You cease to carry on business; or
- 12.5 You are in default under another agreement with us.
- 12.6 No waiver by either you or us of a provision or breach of an agreement containing these conditions operates as a waiver of any other provision or breach unless in writing and signed by the party against whom it is sought to be enforced.
- 12.7 Termination does not affect any accrued rights or liabilities of either party nor does it affect any provision which is expressly or by implication intended to operate after termination.
- 12.8 If an agreement containing these conditions is terminated, you must pay us our fees for the services we have performed up to the date of termination.
- 13 Limitation of liability**
- 13.1 **IMPORTANT NOTICE:** Terms conditions and warranties implied by law which cannot be excluded, restricted or modified apply to this agreement to the extent required by that law.
- 13.2 We exclude to the extent permitted by law all other terms, conditions and warranties which might be implied into this agreement.
- 13.3 For the purposes of Section 68A of the Trade Practices Act 1974, the Client acknowledges that the services provided by Moore Management Pty Ltd under this Agreement are of a kind not ordinarily acquired for personal, domestic use or household consumption.
- 13.4 Subject to condition 13.6 and 13.7, to the extent permitted by law our sole liability for breach of contract, breach of statutory duty, negligence, or other tort is limited at our option to, in relation to services we supply:
- a. the supplying of the services again; or
  - b. The payment of the cost of having the services supplied again.
- 13.5 You do not rely on any representation, warranty or other provision made by us or on our behalf which is not expressly stated in these conditions.
- 13.6 You release us from any liability to you for any loss or damage (including loss or damage caused by the loss of or damage to property, personal injury or death, damage to reputation or goodwill, as well as direct and indirect or consequential costs, losses, expenses, lost profits and lost savings) suffered by you arising from or related to our supply or non-supply of goods and services to you (including but not limited to an act or omission that constitutes or results in negligence, or other tort, or in a breach or alleged breach of contract or statutory duty).
- 13.7 You indemnify us from any claim made by a third party against us for any loss or damage (including loss or damage caused by the loss of or damage to property, personal injury or death, damage to reputation or goodwill, as well as direct and indirect or consequential costs, losses, expenses, lost profits and lost savings) suffered by a third party arising from or related to our supply of goods and services to you (including but not limited to an act or omission that constitutes or results in negligence, or other tort, or in a breach or alleged breach of contract or statutory duty).
- 14 Insurance**
- 14.1 We agree to maintain insurance cover for public liability and professional indemnity insurance during the provision of our services to you. Details of these policies are available on request.
- 15 Notices**
- 15.1 Notices must be in writing. A notice may be delivered to a party by hand, by pre-paid ordinary post, or by facsimile to that party's address as last notified to the party giving the notice.
- 15.2 A notice will be taken to be duly given and received:
- a. if delivered by hand, when delivered;
  - b. if delivered by pre-paid ordinary post, on the third business day after posting; and
  - c. If delivered by facsimile, on completion of transmission and receipt by the sender of the appropriate transmission report.
- 16 Miscellaneous**
- 16.1 We are not responsible for delay or failure caused by an event beyond our reasonable control including but not limited to war, labour disputes, terrorist's attacks, equipment failure, unusually inclement weather, storm, flood, earthquake, lightning, fire, action or inaction of government or the late or inadequate supply of goods or services by third parties.
- 16.2 Timeframes for the supply of our services are estimates only and we are not liable for delays in performance of our services.
- 16.3 These conditions can only be varied by one of our authorised officers signing a document which states the variation, and the transaction to which the variation applies.
- 16.4 You must not construe as legal advice any information, report, survey, opinion or other document produced by us or on our behalf during the supply of our services. You should seek your own independent legal advice from an appropriately qualified legal practitioner about those things.
- 16.5 Any agreement containing these conditions is deemed to be an agreement made in and governed by the law of New South Wales, and the parties submit their disputes to the non-exclusive jurisdiction of the courts of New South Wales