

Ryder Consulting Limited – Terms and Conditions of Trade

1. Definitions

- 1.1. "Ryder" shall mean Ryder Consulting Limited and includes any person acting on behalf of and with the authority of Ryder.
- 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 Ryder to the Customer.
- 1.5. "Services" shall mean planning, environment science and project management services supplied by Ryder to the Customer including the drafting of Reports and includes any advice or recommendations or any other services supplied by Ryder to the Customer.
- 1.6. "Price" shall mean the price payable for the Services as agreed between Ryder and the Customer.

2. Acceptance

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

3. Price and Payment

- 3.1. The Price shall be as indicated on invoices provided by Ryder to the Customer in respect of Services.
- 3.2. Payment of the Price will be required by the 20th of the month in which the invoice is received by the Customer, time being of the essence.
- 3.3. 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 Ryder.
- 3.4. 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 Ryder under this agreement.
- 3.5. Where Services are carried out on a time charge basis, Ryder may purchase such incidental goods and/or services as are reasonably required for Ryder to perform the Services. The cost of obtaining such incidental goods and/or services shall be payable by the Customer. Ryder shall maintain records which clearly identify time and expenses incurred.

4. Delivery of the Services

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

5. Liability and Indemnity

- 5.1. 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.
- 5.2. Ryder 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.
- 5.3. 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 \$NZ1,000,000.
- 5.4. Without limiting any defence a party may have under the Limitation Act 2010, Ryder 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.
- 5.5. Ryder 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.

6. Intellectual Property

- 6.1. The Customer agrees that any new Intellectual Property will be solely owned by Ryder, which grants the Customer a royalty-free licence in perpetuity to use the new Intellectual Property. Ryder 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.

7. Default & Consequences Of Default

- 7.1. If the Customer defaults in payment of any invoice when due, the Customer shall:
 - a. pay default interest on overdue amounts from the date payment falls due to the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment; and
 - b. be liable for all costs and disbursements incurred by Ryder in pursuing the debt including costs of any security under clause 8.1.
- 7.2. Without prejudice to Ryder's other remedies at law Ryder shall be entitled to cancel any Services which remains unfulfilled and all amounts owing to Ryder shall, whether or not due for payment, become immediately payable in the event that:
 - a. any money payable to Ryder becomes overdue; or
 - b. 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
 - c. 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:
 - a. 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 Ryder to secure all amounts payable under these terms and conditions;
 - b. to irrevocably nominate, constitute and appoint Ryder or Ryder'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. Ryder 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. Ryder and the Customer agree that in terms of the Act, unless the work is being conducted upon Ryder's premises, Ryder 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. Ryder may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 10.4. Ryder 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 Ryder notifies the Customer of such change.
- 10.5. The failure by Ryder to enforce any provisions of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Ryder'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 authorized signatory: _____

Print name: _____

Date: _____