

Terms of Engagement of Trehy Ingold Neate Pty Ltd



These terms of engagement apply to services carried out by the Company and should be read in conjunction with the proposal. Unless otherwise agreed, in writing, these terms apply to the exclusion of any inconsistent provisions, which may appear on any order form, or other documentation issued by the Client. They shall apply to any variations, which may be agreed or ordered in the scope of work, and to any supplementary work on the project, which may be the subject of verbal agreement.

1. DEFINITIONS – in these terms of engagement

“COMPANY” means Trehy Ingold Neate Pty Ltd trading as Trehy Ingold Neate ACN 121 392 005

“CLIENT” means the person to whom the Company is contracted to provide services and who is ultimately responsible for payment. An Agent may represent the client (e.g. Consulting Engineer, Architect, Solicitor etc.) who acts with his authority and arranges or directs services on his behalf.

“PROPOSAL” means the Company’s written offer to provide services and goods which accompany these terms.

“SERVICES” means the services or goods to be provided by the Company to the Client, as detailed in the proposal.

“SITE” means the property or building subject to the survey, engineering design or planning report to be provided by the Company.

2. ROLE OF THE COMPANY – the Company will exercise reasonable skill, care and diligence in providing the services in accordance with standards ordinarily exercised by members of the profession in similar conditions and localities.

3. ROLE OF THE CLIENT – the Client (or Agent) must provide to the Company (where relevant);

- written acceptance of the proposal
- approval for access, name of site contact and keys (if applicable)
- survey plans and data relating to services, if available
- other information relevant to the brief e.g. proposed construction, architectural plans etc
- any relevant information available regarding the presence of any hazardous substances or prior site usage which may have led to site contamination

4. ROLE OF THE AGENT – if the proposal is accepted by an Agent, the Agent warrants to the Company that he has the Client's authority to do so and accepts that he is personally liable for the Client's obligations under the engagement. If the person who accepts the Proposal does not indicate in writing he is an Agent at the time of acceptance, he is the Client and liable accordingly.

5. FEES – the proposal indicates whether the Company will provide services for a lump sum or a fee calculated by a schedule of rates. If a schedule of rates, then the Company may in the Proposal give an estimate of the total cost.

The estimate of total cost and lump sum are based on the Company's understanding of the scope of work and its expectation of the condition of the site. The Company will endeavour to provide the services within the estimate or lump sum provided. If undisclosed or unexpected conditions are encountered then additional work not allowed for may be required. Under these circumstances the Company will endeavour to contact the Client and seek his/her approval before undertaking work, which may exceed the estimate or sum.

If any activity is required, which is outside the scope of works of the Proposal, the Company will charge for such additional work at the current standard hourly rates for personnel and equipment. Hire of specialised services, if necessary and not available within our Company, will be charged at cost plus 15% for procurement.

Unless otherwise stated, Goods and Services Tax (GST) has been included in the rates or lump sum in our Proposal and will be charged to the Client.

Any fees or schedule of rates contained in the Proposal are current for a period of six months from the date of the Proposal and may, thereafter, be varied in accordance with changes in the market for Services, Consumer Price Index (CPI) and other statutory charges.

6. TERMS OF PAYMENT – at the Company's discretion, invoices may be rendered monthly, or on completion of work, and are due for payment within the terms specified when quoted (normally within 14 days of issue). Payment of our invoices can be made by cash, cheque, EFT, direct debit or credit card.

In some circumstances, accounts may be due and payable prior to the release of plans, reports and documentation including Development Applications, Engineering Design drawings, final plans and Subdivision Certificate documentation (subdivision, strata subdivision, redefinition and/or consolidation plans) unless otherwise agreed. Non-payment of invoices may result in documentation being withheld.

Digital files, with the exception of .pdf files, may be released or copied to disk prior to payment of invoices, by agreement.

Disbursements will be charged at cost plus a minimum of 15% (these include items such as express postage, plan printing, couriers and similar charges).

If the Client disputes any part of the invoice then a written schedule of items disputed must be given to the Company within ten working days of the receipt of the invoice.

The Company reserves the right to charge interest at 2% over current financial institution overdraft rates on any amounts unpaid after 30 days from the date of issue of the invoice (or the terms specified).

For accounts that remain unpaid after the date upon which, or the expiration of the period within which, they should have been paid, the client shall be responsible for all costs associated with the engagement of a collection agency and/or any legal costs associated with recovery of any outstanding debts.

7. LIMITATION OF LIABILITY – the Company's liability for a breach of Section 74 (1) of the Trade Practices Act (or any equivalent legislation) is limited, at the Company's option, to either providing those services again, or refunding the price of that part of the service in respect of which the alleged breach occurred.

The Company's liability to the Client for loss or damage caused by a failure to exercise reasonable care is limited to an amount agreed in writing between the Client and the Company and subject to the provisions of the Company's Insurance policies.

8. COPYRIGHT – the Company retains copyright in all drawings, reports, calculations, specifications, computer disks and any other documents provided by the Company. The Company licences the Client alone to use this material in connection with the project for which it is prepared.

If the Client is in breach of any obligation to make payment to the Company, the Company may revoke this licence and the Client shall cause to be returned to the Company all material in its possession. The Client must not alter or amend any material produced by the Company and must acknowledge the Company's work in all material incorporated into larger documents or reports.

9. TERMINATION AND DISPUTES – this agreement may be terminated by either party if substantial breach by the other party of their obligations has not been remedied within 14 days of receipt of written notification requiring the breach to be rectified. In the event of termination of engagement, the Company shall be paid for all services performed to the termination date plus reasonable termination expenses.

Any disputes between the Company and the Client shall first be the subject of mediation, provided that this provision shall not prevent the Company from instating legal action at any time.

The relationship between the Company and Client and any relationship arising pursuant to this document shall be governed by the laws of the State or Territory from which our Proposal letter has been prepared.

10. FIELD WORK – the Company's charges allow for the provision and establishment of equipment to carry out the services referred to in the proposal. It is assumed that access is available for the equipment and the Company's personnel. Standby rates will be applicable for delays associated with access, obstructions in work area and other delays caused by the site or by the Client's (or Agent's) actions or lack of action. The unit rates provided are for work within the reasonable capacity of the proposed equipment and personnel.

At all times, the Company's Representative on site is responsible for the decision to attempt any field work, taking into account the safety of himself and his team, the equipment and being mindful of the provision of the Company's Occupational Health Safety and Rehabilitation Policy and guidelines.

11. REPORTS – reports and documentation are provided for the exclusive use of the Client at a specified time, for a specific purpose and a particular project. They should not be relied upon for other projects or purposes on the same site or by a third party without written permission from the Company, as project details, statutory requirements, accuracy requirements and site conditions may change with time and the nature of the project.

An original and one copy of our reports, unless otherwise stated in our proposal, will be provided. Supplementary copies can be made available if requested, at an agreed price.

Quality System and Other Documentation – the Company will, if required, provide a copy of Quality System Documentation, OHS&R Policy, Insurances and any other documentation deemed necessary.

12. CONSTRUCTION SITE SERVICES – the company does not supervise and is not liable for the work of construction or other contractors or consultants, unless it is part of the Proposal.

The Company is not liable for any advice on site which is not confirmed in writing.

13. COMMUNICATIONS

13.1 – During our performance of the Services we may wish to send messages and/or documents to each other by e-mail or facsimile. As e-mail or facsimile carry with them the possibility of inadvertent misdirection, or non-delivery of confidential material, unless you notify us otherwise, you consent to the use of e-mail and/or facsimile.

13.2 – Where messages are sent by e-mail, we adopt the following procedures and require you to do likewise:

13.2.1 If sending a confidential e-mail message, the sender will indicate if a response is not wanted in an electronic form. All risks connected with sending by e-mail commercially sensitive information relating to your business are borne by you and are not our responsibility. If you do not accept the risk, you should notify us in writing that e-mail is not an acceptable means of communication.

13.2.2 Both parties will carry out procedures to protect integrity of data, in particular, it is the recipient's responsibility to carry out a virus check on any attachments before launching any documents, whether received on disk or otherwise.

14. ENGAGEMENT LETTER TO TAKE PRECEDENCE – in the event of any conflict between these Terms of Engagement and the Letter of Engagement, the Letter of Engagement will take precedence.