

The parties acknowledge and agree as follows:**1 The Contract**

- 1.1 The agreement between us comprises:
- (a) these Standard Terms;
 - (b) the Order; and
 - (c) any document referred to in the Order as forming part of this agreement, (together "the Contract").
- 1.2 Acceptance or performance of the Order by you constitutes your acceptance of these Standard Terms and the Contract.
- 1.3 Any reference to other terms and conditions in your quotation or any other documentation presented in connection with the Goods and/or Services will have no legal effect.
- 1.4 Where a separate written contract exists between the parties for the supply of Goods and/or performance of Services (which has been accepted by us in writing), the terms and conditions of that contract shall apply to the exclusion of this Contract.
- 1.5 To the extent that you are not supplying Goods under the Order, the provisions that apply to the supply of Goods have no effect.
- 1.6 To the extent that you are not performing Services under the Order, the provisions that apply to the performance of Services have no effect.

2 Supply of Goods and performance of Services

- 2.1 You must supply the Goods and/or perform the Services in accordance with the Contract, including the Standards.
- 2.2 The Goods must be:
- (a) fit for the purpose for which Goods of the same kind are commonly supplied and for any other purpose specified by us;
 - (b) of merchantable quality; and
 - (c) new, unless otherwise specified by us in writing.
- 2.3 The Services must be performed with due care and skill by appropriately qualified and trained personnel.

3 Price

- 3.1 We agree to pay you the Price for the supply of Goods and/or performance of the Services in accordance with clause 4.

4 Invoicing and payment

- 4.1 You must submit a Tax Invoice to us upon the later to occur of:
- (a) delivery of the Goods;
 - (b) completion of the Services; or
 - (c) such other times as specified in the Order.
- 4.2 Each Tax Invoice submitted by you must include:
- (a) the subject matter of the claim; and
 - (b) the purchase order number; and
 - (c) all relevant records and substantiating documents to enable us to verify the amount of the invoice.
- 4.3 Subject to your compliance with clause 4.1 and 4.2, we will pay you the amount set out in the Tax Invoice submitted by you under clause 4.1 within 30 days after receipt of that Tax Invoice, except where we:
- (a) exercise our right to withhold, retain or set off part of the Price pursuant to clause 4.4; or
 - (b) dispute the invoice, in which case:
 - (i) we agree to pay the undisputed part of the invoice (if any) and withhold the balance

pending resolution of the dispute in accordance with clause 20; and

- (ii) if the resolution of the dispute determines that we are to pay an amount to you, we agree to pay that amount upon resolution of the dispute.

- 4.4 Without limiting any of our rights, we may:

- (a) withhold or retain any moneys due to you under the Contract until such time as the Goods and/or Services comply with the terms of the Contract; or
- (b) set off from any moneys due to you any amounts which you are liable to pay to us.

5 Site, security and environment

- 5.1 We will provide you with sufficient possession of and access to the Site for the proper performance of your obligations under the Contract. Nothing in this clause 5 confers upon you exclusive possession of or exclusive access to the Site.
- 5.2 Your obligations under the Contract are to be undertaken on or in the vicinity of an operational airport and that those operations, including safety and security requirements, may impact on the manner in which you perform your obligations under the Contract.
- 5.3 In carrying out your obligations under the Contract you must use your best endeavours not to interfere with any other occupier or user of the Site.
- 5.4 We will retain absolute and unfettered control over which persons will be given and be permitted to have airside access at the Site.
- 5.5 You must:
- (a) comply with any direction by us relating to the Site;
 - (b) ensure that all of your personnel wear and comply with the terms of issue of any security identification cards issued by us at all times while at the Airport and on the Site; and
 - (c) ensure that our premises are left secure, clean, orderly and fit for immediate use
- 5.6 Without limiting your other obligations under the Contract, you must:
- (a) comply with all applicable environmental laws, guidelines and codes of practice including without limitation, the *Environment Protection and Biodiversity Conservation Act 1999* (Cth);
 - (b) immediately:
 - (i) notify us of any contamination or environmental hazard or breach of any environmental legislation or requirement at the Site; and
 - (ii) remedy the contamination, hazard, breach or requirement to our satisfaction, where caused by any of your act or omission.

- 5.7 You must only undertake work within the hours as set out in the Order, or notified by us in writing to you. You acknowledge that the working hours may differ between any zones on the Site.

6 Delivery of the Goods

- 6.1 You must ensure that the Goods are:
- (a) delivered by the Delivery Date to the Delivery Point;
 - (b) properly packed including:
 - (i) a packing list; and
 - (ii) shipping documents requested by us from time to time; and
 - (c) clearly marked with the identification marks specified in the Order (if any). These identification marks must also be shown on drawings and dispatch and shop lists.
- 6.2 You must complete all documentation and provide all reasonable assistance required by us to obtain reimbursement of, or exemption from, any Taxes imposed on the Goods.

- 6.3 You must provide to us at our request:
- (a) copies of all Technical Materials relating to the Goods; and
 - (b) progress reports setting out in such detail as we require the status of the design, manufacture, testing and delivery of the Goods which are to be supplied under the Contract.

7 Inspection and acceptance of the Goods

- 7.1 We will not be deemed to have accepted any Goods until we have had a reasonable time to inspect the Goods after delivery. Our signing of delivery receipts before inspection does not constitute acceptance of the Goods.
- 7.2 If upon inspection we determine that any Goods are Defective Goods, we may:
- (a) reject the Defective Goods by returning them to you; or
 - (b) make good the Defective Goods and accept the Goods.
- 7.3 You agree to, at our option:
- (a) refund any payments made by us (including any freight charges) in respect of any Defective Goods that we reject;
 - (b) make good the Defective Goods that we reject; or
 - (c) reimburse us for any expenses we incur in making good any Defective Goods.
- 7.4 Any inspection, testing, acceptance or payment of some or all of the Goods does not in any way:
- (a) alter your obligations under the Contract; or
 - (b) affect our rights to claim for any damage or loss we may suffer because of your breach of warranty or failure to fulfil any of your other obligations under the Contract.
- 7.5 If we accept any Goods from you which do not comply with the Contract, this decision does not:
- (a) bind us to accept future shipments or orders of Goods which do not comply with the Contract; or
 - (b) affect your obligations in respect of the supply of Goods.

8 Title and risk in the Goods

- 8.1 The title to and risk in the Goods does not pass to us until:
- (a) we accept the Goods after inspection; or
 - (b) in the event that the Goods are Defective Goods, we elect to make good the defects in the Defective Goods.
- 8.2 You warrant that at the time of delivery of the Goods:
- (a) you have full ownership of the Goods free of any liens, charges and encumbrances and are supplying the Goods to us on that basis; and
 - (b) we will be entitled to full, unencumbered and quiet possession of the Goods.

9 Defects Period

- 9.1 If, during the Defects Period, we find any of the Goods to be Defective Goods, we may, at our option:
- (a) return the Defective Goods to you; or
 - (b) make good the Defective Goods.
- 9.2 During the Defects Period, you agree to, at our option:
- (a) repair free of charge any Defective Goods that we return to you; or
 - (b) replace free of charge any Defective Goods that we return to you; or
 - (c) reimburse us for any expenses we incur in making good the Defective Goods or in returning Defective Goods to you.
- 9.3 Any repairs or replacement goods supplied by you under this clause 9 will be subject to the same Defects Period as the original Goods commencing from the date of repair or replacement.

- 9.4 The remedies in this clause 9 are in addition to any other remedies available at Law.

10 Performance of the Services

- 10.1 You must perform Services:
- (a) from the Commencement Date; and
 - (b) by the Completion Date or for the Term, unless the Contract is terminated.
- 10.2 You must perform the Services:
- (a) exercising due care, skill and judgment;
 - (b) in an efficient, professional and cost effective manner; and
 - (c) in accordance with:
 - (i) all applicable Standards;
 - (ii) the Contract, and all guidelines, procedures and directions made by us; and
 - (iii) your design obligations under the Contract, including the preparation and submission to us of any design documents required for the purposes of this Contract.
- 10.3 You must comply with all applicable Laws and the requirements of any Government Authority and ensure that you possess all relevant authorisations, permits and Licences to perform the Services.
- 10.4 Without limiting clause 10.3, you must comply with:
- (a) all applicable occupational health, safety and environmental laws, guidelines and codes of practice including, without limitation, the *Occupational Safety and Health Act 1984 (WA)*;
 - (b) all occupational health, safety and environmental guidelines, rules and procedures provided to you by us;
 - (c) applicable drug and alcohol testing and management programs, Laws, guidelines and codes of practice including, without limitation, the *Civil Aviation Safety Regulations 1998 (Cth)*;
 - (d) drug and alcohol management plans, guidelines, rules and procedures provided (including on request) to you by us and as may be updated from time to time;
 - (e) drug and alcohol management plans which you may be required to provide to the us pursuant to the Order.
- 10.5 You must provide us with evidence of your compliance with your obligations under clauses 10.3 and 10.4, if requested.

11 Indemnity

- 11.1 You indemnify us against any loss, expense or damage (including reasonable legal costs) suffered or incurred and arising from or in connection with any:
- (a) negligence by you in connection with supplying of Goods to us and/or performing the Services;
 - (b) failure by the you to comply with any relevant Laws in connection with supplying of Goods to us and/or performance of the Services; and
 - (c) claim that you have infringed or allegedly infringed the IP Rights of any person.
- 11.2 Your liability to indemnify us will be reduced proportionally to the extent that a negligent act or omission of ours has contributed to your loss, expense or damage.

12 Insurance

- 12.1 You must effect and maintain appropriate insurance policies for the duration of your obligations under the Contract.
- 12.2 You must provide evidence of such insurance upon our request.

13 Our Material

- 13.1 You must ensure that any of Our Material provided to you is used strictly in accordance with any conditions, restrictions or directions from us.

14 Intellectual property

- 14.1 We grant you a licence to reproduce and use Our Background IP as necessary for the sole purpose of you complying with your obligations under the Contract. We may revoke this licence at any time by notice in writing to you.
- 14.2 You must not reproduce, use or otherwise deal with Our Background IP, or allow any other person to do the same, for any purpose other than performing its obligations under this Contract.
- 14.3 All Project IP vests in and is owned by us.
- 14.4 We grant you a non-exclusive, royalty-free, non-transferable licence to use, reproduce, modify and adapt the Project IP for the sole purpose of performing your obligations under the Contract. The licence will endure until the termination or the expiry of the Contract, whichever is earlier. We may revoke this licence any time by notice in writing to you.
- 14.5 You must not reproduce, use or otherwise deal with the Project IP, or allow any other person to do the same, for any purpose other than performing your obligations under the Contract.
- 14.6 You grant to us an irrevocable, royalty-free, non-transferable licence to use, reproduce, modify and adapt Your Background IP to the extent necessary to exercise our rights with respect to the Contract.
- 14.7 You assign to us all of your rights, title and interest, including all IP Rights, in all documents which you create in connection with the Contract and which you are required to provide to us under the Contract, on their creation.
- 14.8 You must procure the assignment of all rights, title and interest, including all IP Rights, in all documents created by sub-consultants or other contributing parties in connection with the Contract and which you are required to provide to us under the Contract, from those persons to us on their creation.
- 14.9 You must, if required by us, do all further things necessary to give effect to the assignments in clause 14.7 and 14.8.
- 14.10 You will not use any material in which there are IP Rights incapable of being assigned to us, without our written approval. If we approve, you must ensure that we are provided with an unrestricted, non-exclusive, irrevocable and transferable, royalty-free licence to use the subject material of those IP Rights on terms acceptable to us.
- 14.11 You must not infringe the IP Rights of any third party when performing the Services or providing the Goods.
- 14.12 You must notify us as soon as you become aware of, and provide all reasonable assistance we request regarding, any suspected, threatened or actual infringement of:
- (a) Our Background IP; and
 - (b) Project IP.
- 14.13 The obligations in this clause 14 continue after the expiry or earlier termination of the Purchase Order Contract.

15 Confidential information

- 15.1 You must not, and you must ensure that your employees and sub-consultants do not, disclose or give to any person any Confidential Information except:
- (a) with our written consent, which consent may be given or withheld in our absolute discretion; or
 - (b) if you are required to do so by law; or
 - (c) if the information is in the public domain other than by reason of breach of this clause; or
 - (d) where it is reasonably necessary for you to seek professional advice or to defend yourself from any suit or claims.

- 15.2 You may only use the Confidential Information for the purpose of performing your obligations under this Contract.
- 15.3 This clause 15 survives expiry or earlier termination of this Contract.

16 Warranties

- 16.1 You warrant that the Goods:
- (a) will be free from defects in design, materials and workmanship;
 - (b) will be fit for purpose; and
 - (c) will meet the Standards.
- 16.2 You warrant that the Services:
- (a) will be performed in accordance with the Contract;
 - (b) will be performed with appropriate skill and care and to a high quality consistent with services of a similar nature;
 - (c) will be fit for purpose; and
 - (d) will meet the Standards.
- 16.3 You warrant that at the date of the Contract, you are not aware of any claim for infringement of IP Rights or for the breach of any obligations of confidence, arising out of the manufacture, sale or use of the Goods or the performance of the Services.
- 16.4 You warrant that:
- (a) subject to any licence of IP Rights provided under clause 14.1, after the assignments in clause 14.7 and 14.8 we will own all of the IP Rights in the documents which you are required to provide to us under the Contract;
 - (b) neither you nor any of your sub-consultants or other contributing parties have licensed, assigned or in any way disposed of, or granted, any rights in respect of those IP Rights;
 - (c) the IP Rights assigned pursuant to clauses 14.7 and 14.8 do not infringe any rights, including IP Rights, of another person;
 - (d) you have maintained confidentiality with respect to that part of the IP Rights being assigned under the Contract which comprises know how and rights to have confidential information kept confidential; and
 - (e) in relation to any license provided under clause 14.10, you have the right to grant that licence, and use of that subject material by us in connection with the supply Goods and/or the performance of the Services or otherwise will not infringe any rights, including IP Rights, of another person.

17 Taxes

- 17.1 You are responsible for any Taxes levied on, in respect of, or in connection with the supply of the Goods and/or the performance of the Services.

18 GST

- 18.1 If GST is imposed on any supply made by you under or in connection with the Contract, you may recover from us, in addition to the Price, an amount equal to the GST payable in respect of that supply upon the provision of a Tax Invoice.

19 Termination and suspension

- 19.1 We may terminate the Contract at any time and in our sole discretion by giving you 7 days prior notice.
- 19.2 We may, by notice to you, immediately terminate the Contract if you are in breach of your obligations under the Contract and:
- (a) such breach is not remedied within 7 days of the receipt of a notice from us; or
 - (b) if such breach is remedied but repeated, at any time after the receipt of such a notice.

19.3 We may terminate the Contract at any time by notice to you, without prejudice to our rights at law or otherwise, if you take any action or any steps are taken or legal proceedings commenced for:

- (a) your winding up, dissolution, liquidation or re-organisation, other than to reconstruct or amalgamate while solvent on terms approved by us (which approval will not be unreasonably withheld); or
- (b) the appointment of a controller, administrator, official manager, trustee or similar officer to you or any of your revenues and assets.

19.4 You may terminate the Contract by notice to us if we have failed to make a payment in breach of clause 3, subject to our rights under clause 4.

19.5 Upon receipt of a notice of termination from us, or you terminate by notice to us, you must:

- (a) stop work (except to the extent specified in the notice from us);
- (b) take such action as necessary or as we direct, for the transfer, protection and preservation of our property; and
- (c) do your best to minimise the costs of termination to us.

19.6 If the Contract is terminated by us in accordance with clause 19.1, we will only be liable for the payment for:

- (a) accepted Goods and/or Services performed to the date of termination; and
- (b) extra costs necessarily and reasonably incurred by you as a result of termination subject to our rights of set off,

and we will not be liable for compensation for loss of your prospective profits.

19.7 If the Contract is terminated by us under clauses 19.2 or 19.3, we will only be liable for payment for the Works carried out to the date of termination subject to our right of set off. We may employ other persons to complete or perform the Contract. Any cost incurred by us in employing other persons to complete or perform the Contract under this clause 19.7 will be a debt due from you to us.

19.8 If the Contract is terminated by us under clauses 19.2 or 19.3, the rights of the parties will otherwise be as though we terminated the Contract as a result of your repudiation.

19.9 Any expiration or termination of the Contract does not affect:

- (a) any rights of the parties which may have accrued before the date of termination; and
- (b) the rights and obligations of the parties under clauses 11, 13, 15 and 20 which survive termination of the Contract.

19.10 The parties' rights under this clause 19 are without prejudice to any other rights or remedies the party may have whether under the Contract or otherwise at Law.

19.11 We may, at any time and for any reason by notice to you, suspend performance of your obligations under the Contract.

20 Dispute resolution

20.1 If a Dispute arises, the parties must, prior to the initiation of any legal action, use their best efforts in good faith to reach a reasonable and equitable resolution of the Dispute.

20.2 Despite the existence of a Dispute, the parties must continue to perform their respective obligations under the Contract.

21 Assignment and sub-contracting

21.1 You must not assign or novate your rights and obligations under the Contract without our prior written consent.

21.2 We may assign or novate any or all of our rights and obligations under the Contract.

21.3 You must not subcontract any of your obligations under the Contract without our prior written consent.

21.4 You must ensure that subcontractors are subject to the same requirements with respect to security, safety and environment as you are under the Contract. We may direct you to terminate any sub-contract for a breach of any security, safety or environmental requirement of the Contract.

22 Other matters

22.1 Part 1F of the *Civil Liability Act 2002* (WA) is excluded from operation with respect to any dispute, claim, action or any matter whatsoever arising out of or in connection with the Contract.

22.2 If you are a trustee, you enter into the Contract personally and in your capacity as trustee and have the power to perform your obligations under the Contract.

22.3 Any of our rights under the Contract may only be waived by us in writing signed by our duly authorised Representative.

22.4 We may exercise a right, remedy or power in any way we consider appropriate.

22.5 If we do not exercise a right, remedy or power at any time, this does not mean that we cannot exercise it later.

22.6 To the extent of any inconsistency in the standard to which the Goods are to be supplied or the Services performed, the higher standard will prevail.

22.7 Our rights, remedies and powers under the Contract are in addition to any rights, remedies and powers provided at Law.

22.8 If any part of the Contract is illegal, or unenforceable, that part will be severed from the Contract and the balance of the Contract will remain in full force and effect.

23 Governing law

23.1 The Contract is governed by the laws of Western Australia.

23.2 The parties agree to submit to the exclusive jurisdiction of the courts of Western Australia.

23.3 The parties agree that the United Nations Convention on Contracts for the International Sale of Goods (adopted at Vienna on 10 April 1980) does not in any way apply to the Contract.

23.4 The Contract is subject to the *Airports Act 1996* (Cth) and all other laws applying to the Airport and any matter or thing occurring, done on or otherwise related to the Airport. If the Contract imposes an obligation which is inconsistent with the *Airports Act 1996* (Cth) or any other law, the *Airport Act 1996* (Cth) will prevail to the extent of the inconsistency.

24 Definitions and Interpretation

24.1 In the Contract unless the contrary intention appears:

Airport means Perth Airport, Perth, Western Australia and all adjacent land and roads controlled by us.

Commencement Date means the date(s) on which you are to commence the Services as specified in the Order.

Completion Date means the date(s) on which you are to complete the Services as specified in the Order.

Confidential Information means all confidential, non-public or proprietary information regardless of how the information is stored or delivered, exchanged between the parties before, on or after the date of this Contract relating to the business, technology or other affairs of Perth Airport Pty Ltd.

Defects Period means 24 months commencing on the date of delivery of the Goods, as extended pursuant to the Contract.

Defective Goods means Goods which are not in conformity with the Contract.

Delivery Date means the date(s) on which you are to deliver the Goods as specified in the Order.

Delivery Point means the place(s) where the Goods are to be delivered as specified in the Order.

Dispute means any dispute, difference of opinion or disagreement whatsoever between the parties arising under, out of or in connection with the Contract.

Goods means the goods or any part of the goods specified in the Order.

Government Authority means any national, state, local, regional, territorial or municipal government, ministry, governmental department, commission, board, bureau, agency, instrumentality, executive, legislative, judicial or administrative body, having jurisdiction over the supply of Goods, performance of the Services or us.

GST has the same meaning as in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as amended from time to time.

IP Rights are all current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trade marks, know-how, confidential information, patents, inventions and discoveries and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation 1967.

Law means any statute, ordinance, code, law, decree, circular, rule or regulation by any Government Authority, whether currently in force or coming into force on or after the date of the Contract.

Licences means all licences, qualifications, registrations and other statutory requirements necessary for the supply of the Goods and/or performance of the Services under the Contract.

Order means a direction (or more than one direction) by us, either orally or in writing, to supply Goods and/or perform Services, which may include amongst other things a description of the Goods and/or Services, the Price, the Commencement Date, the Completion Date, the Terms and a purchase order number.

Our Background IP means IP Rights owned by or licensed to us (including know-how and technical information) which exists prior to the date of the Contract or is developed or acquired by us independently of the Contract, and which is made available to the you under or in connection with the Contract, but does not include the Project IP.

Our Material means any property, information, documentation or other material in whatever form, including any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions provided to the you by us for the purpose of the Contract.

party or parties means you or us.

Price means the price for the Goods and/or Services as specified in the Order.

Project IP means IP Rights discovered or coming into existence as a result of, for the purposes of or in connection with the supply of the Goods or the performance of the Services in accordance with the Contract, but does not include the Consultant Background IP.

Services mean the services or any part of the services as specified in the Order.

Site means the part of the Airport where the Goods are to be delivered and/or the Services are to be performed.

Standards means all industry standards and government regulations applicable to the Goods and/or Services.

Tax Invoice has the same meaning as in the GST Act.

Taxes means all taxes under any Law, including all sales, excise consumption and use taxes including any value added tax, storage taxes, income, profit, fringe benefits, franchise and personal property taxes, payroll and employment taxes, levies, imposts, deductions, charges, withholdings and duties (including, stamp, customs and transaction duties), licence and permit fees together with any related interest, penalties, fines and other statutory charges.

Technical Materials includes plans, designs, drawings, engineering information, data, specifications, reports, accounts.

Term mean term of the agreement as specified in the Order.

you and your means supplier of the Goods and/or Services.

Your Background IP means IP Rights owned by or licensed to you (including know-how and technical information) which exists prior to the date of the Contract, but does not include the Project IP.

we and us and our means Perth Airport Pty Ltd.

24.2 In the Contract unless the contrary appears:

- (a) the singular includes the plural and vice versa;
- (b) if a period of time is specified and dates from a given day or the day of an actual event, it is to be calculated exclusive of that day;
- (c) a reference to a clause is a reference to a clause in the Contract;
- (d) a reference to a third person or a third party is a reference to a person who is not a party to the Contract;
- (e) a reference to "dollar" or "\$" is a reference to Australian Dollar; and
- (f) the words "including" and "include" are a reference to "including, but not limited to".

24.3 Headings are inserted for convenience only and do not affect the interpretation of the Contract.

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