

# **SHEQ Ltd Terms & Conditions of Trade**

## **1. Parties and Definitions to the Agreement**

- 1.1 "SHEQ" for this agreement shall mean SHEQ Ltd and any of its authorised representatives.
- 1.2 "Client" shall mean the Client, any person or entity acting for or on behalf of the Client or with the permission or authority of the Client as detailed on any quotation, estimate, Engagement Agreement or notation as provided by SHEQ to the Client.
- 1.3 "Guarantor" shall mean any person (or persons), or entity, who agrees to be held liable for the debts incurred by the Client in the course of business between the Client and SHEQ on a principle debtors basis.
- 1.4 "Services" shall mean all services supplied by SHEQ to the Client and includes any recommendations or consultancy advice, product produced or training delivered.
- 1.5 "Price" shall mean the price payable for services as agreed between SHEQ and the Client in accordance with clause 4 of this contract.

## **2. Services**

- 2.1 The services provided shall be described on our invoices, quotation, and/or Engagement Agreement, or any other such form as provided by SHEQ to the Client.

## **3. Service & Conduct**

- 3.1 Where SHEQ performs work for you, it will ensure the work is carried out in a professional manner and in accordance with appropriate standards.
- 3.2 While SHEQ will make every endeavour to ensure a fully professional approach to all work carried out, it cannot guarantee the results of recommendations as many factors are outside our control. Consequently SHEQ shall not be liable for any consequences of the provision of services to you, except for consequences arising as a direct result of the proven negligence on the part of SHEQ.

## **4. Price & Payment**

- 4.1 The price shall be at SHEQ's sole discretion, one or more of the following:
  - a. The price quoted by SHEQ to the Client. The quoted price or rates shall not alter providing the Client accepts SHEQ's quote in writing within thirty (30) days of the date of the quotation.
  - b. SHEQ's price as per SHEQ's current rates as when the service is provided.
  - c. Travel may be charged for travel in excess of 40km road travel per day from Botany Downs, Auckland. Kilometres travelled in excess of this daily maximum are charged at 77 cents per km. Time spent travelling in excess of 30 minutes per day is charged at half the current hourly rate. Air travel will be charged to you at the rate for the travel by the providing service.
  - d. The use of external suppliers on your behalf, excluding consultancy will be charged to you at the suppliers prevailing rates.

## **5. Payment Terms**

- 5.1 Payment shall be at SHEQ's sole discretion, one or more of the following:
  - a. All invoices shall be paid within 14 days from the date of the invoice.
  - b. Payment to approved Clients shall be made by instalments in accordance with SHEQ's payment schedule.
  - c. Payments will be made as agreed between SHEQ and the Client. If no payment arrangement is made or payment terms agreed then payment shall be due as stated on Invoice in cash or by direct credit to SHEQ's nominated bank account.
- 5.2 Payment shall not be deemed to have been received unless payment is made in cash or cleared funds are deposited in to SHEQ's nominated bank account. Any other form of payment will not be accepted as paid until the transaction is deemed to be honoured.
- 5.3 GST and other taxes and duties that may apply will be added to the Price unless they are expressly included in the Price.



## **6. Acceptance of Terms of Trade**

- 6.1 Any engagement of SHEQ's Services shall constitute acceptance of the Terms and Conditions of Trade of SHEQ by the Client. Should more than one Client enter into this agreement the Clients shall be jointly and severally liable for the payment in full of the Price.
- 6.2 The terms and conditions of this agreement can only be amended with the written consent of SHEQ and shall be binding on the Client.
- 6.3 In event that the Client proposes any change to the structure of the Clients business, a change in Shareholding, Name, Directors, Premises, postal address, registered office or Sale of the business the Client shall give no less than fourteen (14) days written notice of the proposed change or changes. If any loss is incurred by SHEQ the Client shall be liable for any loss suffered by SHEQ due to the Client not complying with this provision.

## **7. Default & Consequences of Non Payment**

- 7.1 If the Client defaults in payment of any invoice when due, the Client shall pay all costs and disbursement incurred by SHEQ in pursuing the debt including legal costs on a solicitor and own Client basis and SHEQ's collection agency costs.
- 7.2 Interest on overdue or unpaid invoices shall accrue from the date when payment becomes due daily until the date payment is received at a rate of 2.5% per calendar month and all interest shall compound monthly before and after any judgement until payment is received in full.
- 7.3 SHEQ at its discretion may suspend or terminate the supply of goods and/or services should the Client, at any time be in breach of any obligation to SHEQ (including those relating to payment). SHEQ will not be liable for any loss or damages the Client has deemed to have suffered because SHEQ has exercised their rights under this clause.
- 7.4 If any account remains overdue after thirty (30) days then an amount of \$20.00 or 10% of the amount due (up to a maximum of \$200) whichever is greater, shall be charged for administration fees and shall become immediately due and payable.
- 7.5 Without prejudice to SHEQ's other remedies at law, SHEQ shall be entitled to cancel all or any part of any supply agreement with the Client which remains unfulfilled and all amounts owing to SHEQ shall, whether or not due for payment, become immediately payable in the event that:
- any money payable to SHEQ becomes overdue of payment, or in SHEQ's opinion the Client will be unable to meet his payments as they become due; or
  - the Client 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
  - a receiver, liquidator, manager (provisional or otherwise) or similar person is appointed in respect of the client or any asset of the Client

## **8. Right of Cancellation**

- 8.1 SHEQ may cancel any contract to which these Terms and Conditions apply or cancel the delivery of materials, products, goods or service at any time before the materials, products or goods and the like are delivered by giving written notice to the Client. On giving notice SHEQ shall repay to the Client any sums paid in respect of the Price. SHEQ shall not be liable for any damages or losses arising from such cancellation.
- 8.2 Should the Client cancel any contract with SHEQ the Client shall be liable for any loss incurred by SHEQ (including but not limited of loss of profits) up to the time of cancellation.

## **9. Intellectual Property**

- 9.1 All work, inventions, discoveries, computer processes and improvements made by SHEQ in the course of providing services, remain the property of the client. Nothing in this clause shall give the client any rights in respect of any property of SHEQ existing before the commencement of this contract.

## **10. Privacy Act 1993**

- 10.1 The Client and the Guarantor/s (if separate to the Client) authorise SHEQ to:
- collect, use and retain any information about the Client, for purpose of assessing the Client's creditworthiness or marketing products and services to the Client; and
  - disclose information about the Client, whether collected by SHEQ from the Client directly or obtained by SHEQ from any other party, to any other credit provider or any credit reporting agency for the



purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.

10.2 Where the Client and/or Guarantors are an individual the authorities under clause 10.1 are authorities or consents for the purposes of the Privacy Act 1993.

10.3 The Client and/or Guarantors shall have the right to request SHEQ for a copy of the information about the Client and/or Guarantors retained by SHEQ and the right to request SHEQ to correct any incorrect information about the Client and/or Guarantors held by SHEQ.

## **11. Dispute Resolution**

11.1 All disputes and differences between the Client and SHEQ touching and concerning this agreement shall be referred to arbitration under a single arbitrator agreed upon by both parties, or failing agreement, by two arbitrators (one to be appointed by each party) and their umpire (appointed by them prior to arbitration), such arbitration to be carried out in accordance with provisions of the Arbitration Act 1996.

## **12. General**

12.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the existence, validity legality and enforceability of the remaining provisions shall not be prejudiced, affected or impaired.

12.2 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 Auckland New Zealand or as otherwise directed by the Court.

12.3 SHEQ 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 SHEQ of these terms and conditions.

12.4 In the event of any breach of this contract by SHEQ the remedies of the Client shall be limited to damages which under no circumstances shall exceed the contract price for Services provided and limited to the amount of monies paid to SHEQ by the Client in part or full whichever is the lesser amount.

12.5 The Client shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Client by SHEQ.

12.6 SHEQ may license or sub-contract all or any part of their rights and obligations without the Client's consent.

12.7 SHEQ 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 SHEQ notifies the Client of such change.

12.8 The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(d) were omitted from the Contractual Remedies Act 1979.

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

12.10 The failure by SHEQ to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect SHEQ's right to subsequently enforce that provision.

