

## LANDSUR PTY LTD – TRADING TERMS AND CONDITIONS

These Terms use words which have been defined in the final paragraph.

### 1. **Contract**

- 1.1. The Customer agrees the Services, as set out in the Quotation, are suitable for the Customer. The Services and these Terms are the agreed contractual terms between Landair and the Customer.
- 1.2. The Customer warrants it has provided all necessary and desirable information to Landair and that the Services reflect the Customer's instructions. The Customer further warrants that no other information necessary or desirable for Landair to provide the Services is omitted or incorrect and that any risk, hazard or work safety issue has been identified by the Customer and notified in full to Landair.
- 1.3. These Terms apply to all trade and all Contracts between Landair and the Customer. The Customer acknowledges that Landair will not supply services to the Customer on any terms or conditions other than these Terms.
- 1.4. The parties acknowledge and agree the Services are provided by Landair to the Customer for the benefit of the Customer only. The Customer's right to use the Services only arises upon full payment of the Price. The Customer must not copy, reproduce, transfer or sell the Services up to and until the full payment of the Price.

### 2. **Price and Payment**

- 2.1. Unless specified otherwise, any Price excludes Goods and Services Tax (GST). GST is payable by the Customer to Landair in addition to the Price. The Customer must pay the Price to Landair within 14 days from the date of the Invoice.
- 2.2. If the Customer fails to make payment of any amount of the Price on the due date:
  - 2.2.1. the Customer must pay to Landair interest on the full amount outstanding at 2% per month as at the date on which the relevant payment is due to be paid, calculated monthly for the period from the due date until payment is received; and
  - 2.2.2. until payment is received Landair may, at its discretion, withhold supply of Services to the Customer and Landair is not liable for loss or damage resulting directly or indirectly from such action.
- 2.3. The Customer must not deduct or set off any amount against the Price payable to Landair.
- 2.4. With the prior written consent of Landair, the Customer may request Landair to provide an Invoice for the Services to a third party. Any such third party invoice does not void or reduce the Customer's liability to pay the relevant Invoice unless (and only to the extent) such Invoice is paid to Landair on or before the due date for payment. If Landair incurs any cost in recovering payment from such third party payer, the Customer is responsible to Landair for that cost.

### 3. **Cancellation**

The Customer may not cancel a Contract other than with Landair's written consent, and the Customer remains liable for payment of the Price.

### 4. **Subcontracting**

The Customer acknowledges that Landair may subcontract the Services or part of the Services, at its discretion.

### 5. **Limitation of Liability**

- 5.1. If for any reason beyond the control of Landair an order cannot be filled at the time required by the Customer or at all, Landair is not required to supply the Services to the extent and for the period that it is so unable to supply the Services, and Landair is not liable to the Customer in respect of any inability on its part to perform its obligations.
- 5.2. Except as specifically set out in these Terms, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, design or performance of the Services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded, except where such exclusion is prohibited at law. Landair is not liable for any direct, indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused arising from the Services, including but not limited to loss of turnover, profits, business or goodwill.
- 5.3. If the Customer is a "consumer" within the meaning of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) and the Services are not of a kind ordinarily acquired for personal, domestic or household use or consumption, Landair's liability for a breach of a condition, warranty or guarantee (whether express or implied) is limited to the supply the Services again or pay the costs of having the Services supplied again.
- 5.4. Landair's liability to the Customer is limited to the amount paid or payable by the Customer under the relevant Contract.

### 6. **Dispute Resolution and Jurisdiction**

- 6.1. If a dispute arises out of or relating to a Contract (a Dispute), either party may notify the other party of the nature and particulars of the Dispute, and the parties must, within 7 days of the delivery of such notice, commence discussions to attempt to resolve the Dispute in good faith, without the necessity of resorting to any formal proceedings.
- 6.2. If the Dispute is not resolved within the next 10 days, either party may refer the Dispute to mediation in accordance with, and subject to, the mediation rules of the Australian Commercial Disputes Centre (ACDC). The parties agree that they must bear the costs of mediation under this clause 6 equally.
- 6.3. If neither party refers the Dispute to mediation within 24 days of delivery of the initial notice of the Dispute, either party may commence court proceedings in respect of the Dispute.

6.4. Any Contract between Landair and the Customer is governed by the laws of the state of Victoria.

7. **Definitions**

In these terms and conditions unless the context requires otherwise:

**Contract** means a contract for the sale of Services by Landair to the Customer, which arises in accordance with clause 1 of these Terms.

**Customer** means the customer identified at the commencement of this document.

**Invoice** means a tax invoice from Landair in respect of the Services which Landair is supplying to the Customer.

An Invoice may reflect all, or a portion of, the Services provided, or to be provided, to the Customer.

**Landair** means Landsur Pty Ltd ACN 078 606 185, trading as Landair Surveys.

**Price** means the price payable in respect of the Services, as specified in the Invoice. Unless specified otherwise, any Price excludes Goods and Services Tax.

**Quotation** means a written quotation describing the Services to be provided by Landair to the Customer.

**Services** means the services which the Customer has agreed to purchase from Landair, details of which are described in a Quotation.

**Terms** means these trading terms and conditions.