

Australian Sustainable Business Group terms and conditions - Consulting

us, we, our means ASBG Pty Ltd ACN 71100 753 900 and its related bodies corporate (within the meaning of the Corporations Act 2001).

you, your means the person purchasing services from us.

services means the services ordered by you from us from time to time and includes any services described on our quotation

You and we agree that:

1. only these terms apply to this contract entered into by us with you unless otherwise agreed in writing;
2. by placing an order with us or accepting provision of services from us you accept these terms;
3. any quotation given by us is an invitation to treat and we reserve the right to accept your order or not;
4. you cannot cancel an order or assign your interests under these terms without our written consent;
5. we are at liberty to provide services answering the description of the services notwithstanding the fact that these terms are to be deemed to be a contract for the supply of specific services and, without limiting the generality of the foregoing, services provided in accordance with these terms may incorporate such design alterations or modifications to any proposed methodology as are from time to time made by us;
6. subject to paragraph 7, to the extent permitted by law, we make no representation, warranty or undertaking regarding the character, quality, workmanship, condition, suitability or fitness of the services and, to the extent permitted by law, all implied terms as to those matters are excluded;
7. unless expressly prohibited by any applicable law, we are not liable (whether in contract, tort, under any statute or otherwise) for loss or damage of any kind (including direct, indirect and consequential loss and damage of business revenue, loss of profits, failure to realise expected profits or savings or other commercial or economic loss of any kind), however caused arising out of or in any way related to the services, or failure or delay in the performance of the services. In any event, to the extent the law allows, our liability will be limited, at our option, to:
 - (a) the resupply of the services or equivalent services; or
 - (b) the payment of the cost of having the services resupplied;
8. the price for services is that which applies when you are invoiced for the services;
9. we may revise any prices specified in respect of any services yet to be provided by giving you written notice thereof. If you are unwilling to accept the revised price or prices, you must notify us in writing prior to the date on which such services are provided, otherwise you will be deemed to have agreed to such revision. In the event you do notify us, we have the option to perform the contract at the original order prices or to cancel the contract;
10. unless otherwise provided by us in writing you must pay the price for the services, plus any applicable goods and service tax without any deduction, withholding or set-off, within 30 days of the date of our tax invoice for the services;
11. if you do not pay on time, then we may charge you interest at our overdraft rate plus 2% unless you are a natural person acquiring the services for reasons other than predominantly for business or investment purposes;
12. (a) In this paragraph 12, GST Law means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and terms defined in the GST Law bear their defined meanings.
(b) If GST is payable on a taxable supply made under this contract, the party providing the consideration for that supply must also pay, at the same time as the consideration for the supply, an additional amount on account of GST equal to the consideration payable for the taxable supply multiplied by the prevailing GST rate.
(c) Where there is an adjustment relating to the taxable supply, the supplier of the taxable supply will deliver an adjustment note to the recipient of the taxable supply as required by the GST Law;
13. we reserve the right to perform the services in instalments, and all such instalments shall be separately invoiced and paid for when due without regard to subsequent provision of services;
14. if the services are to be provided at a site owned, leased or otherwise occupied by you (**site**):
 - (a) you grant to us a non-exclusive licence to enter on and remain at the site to perform the services;
 - (b) you must ensure at all times that the site is maintained with due care so that the site is easily accessible by us and is safe; and
- (c) we shall not be responsible for any damage or destruction to property located at the site, except for such damage or destruction that occurs due to our gross negligence or wilful misconduct, and you release and indemnify us from and against all claims of any kind in respect of such damage or destruction;
15. title to any materials used in the supply of services (**materials**) passes to you when you pay for the services and, if you pay by cheque, payment occurs when we are credited with the full amount of that cheque;
16. until title passes, you hold the materials as fiduciary and bailee, must store the materials separately from all other property, keep them in the same condition and must not sell or part with possession of the materials without our prior written consent. If you do sell the materials to a third party either in contravention of this paragraph or with our consent, you shall be deemed to have assigned all your rights against that third party and must hold the purchase price received from the third party on trust for us;
17. without prejudice to any other rights we may have, if you breach these terms:
 - (a) all amounts which you owe us become immediately payable;
 - (b) we may retain any deposit paid by you on account of the price;
 - (c) we and our employees and agents may enter your premises or the site to recover materials unpaid for and any equipment left by us at your premises or the site and we will not be liable for any damage caused to the site or your premises or property in retaking possession of the materials;
 - (d) you must indemnify us against all costs and expenses incurred by us in retaking possession of the materials; and
 - (e) we may cease to provide the services to you and may withhold any reports or information that we have previously agreed to provide to you until you have rectified the breach to our satisfaction.
18. all intellectual property developed from the carrying out of the services will be your absolute property and we will not, except as otherwise agreed, have any legal or equitable claim or right to any part of that intellectual property;
19. you grant to us a non-exclusive perpetual licence to use all know how, methodologies and other information developed or generated by us in carrying out the services. You acknowledge that:
 - (a) we may exploit that licence to conduct other activities which may produce results that are similar to those produced by the services so long as those activities have been conducted outside of this contract; and
 - (b) you will not have any entitlements to intellectual property rights arising from those activities;
20. for the purposes of the preceding paragraph, "information" means all confidential information and all other information of any nature, knowledge, technology, ideas, technical data, concepts, techniques, processes, formulas, expertise, computer programs, trade secrets, samples, specimens, inventions, discoveries, designs, methods, know-how and data whether recorded or not, and, if needed, in whatever form they are recorded, embodied or encoded;
21. we may alter or suspend credit or refuse to provide services or cancel unfulfilled orders when, in our opinion, your financial condition or account warrants such action. We may terminate this agreement immediately if you breach any part of these terms or if you become insolvent or an insolvent under administration, within the meaning of section 9 of the Corporations Act 2001;
22. we may engage or sub-contract any person to provide the services, and may assign our rights or interests under these terms, in our absolute discretion;
23. if you comprise more than 1 person, these terms bind you jointly and severally;
24. you may not amend or vary these terms and these terms prevail over any terms you seek to impose on the order for services. No course of prior dealings or usage of trade will be used to supplement or explain these terms. We may amend or replace these terms at any time by notice to you;
25. these terms will not be construed against us merely because we prepared them or rely on them;
26. these terms set out the whole agreement between you and us relating to the services and are governed by New South Wales law; and
27. you submit to the non-exclusive jurisdiction of New South Wales courts for any proceedings arising out of these terms.