



ROPE BOYS

SYDNEY ROPE ACCESS SERVICE

TERMS AND CONDITIONS

1. DEFINITIONS

1.1 “Supplier” shall mean Rope Access Sydney NSW Pty Ltd (ABN12 635 675 713).

1.2 “Customer” means a person or entity whose order for the purchase of Service or request for supply of Services is accepted by the Supplier.

1.3 “Service” means Labor hire service supplied by the Supplier to the Customer.

1.4 “Labour Hire” means the provision by the Supplier to the Customer of the Supplier’s labour hire workers as required by the Customer to perform the Services.

1.5 “Price” means the cost of the Services as agreed between the Supplier and the Customer.

1.6. “Quoted Date” means the date of delivery as agreed between the Supplier and the Customer.

1.7 “Terms” means these terms and conditions and where the context so permits shall include the agreement formed between the Supplier and the Customer.

2. CUSTOMER OBLIGATIONS/

ACKNOWLEDGMENTS

2.1 The headings used in this agreement do not form part of these Terms and are for convenience only.

2.2 Words importing the singular shall include the plural and vice versa, words importing a gender shall include other genders and references to a person shall be construed as references to an individual, firm, body corporate, association (whether incorporated or not), government and governmental, semi-governmental and local authority or agency.

3. GENERAL

3.1 These Terms replace any previous agreements or terms and conditions of sale or negotiation, understanding, or communication in relation to the supply of Services.

3.2 Unless otherwise agreed in writing by the Supplier, any terms and conditions of the Customer’s deviating from or inconsistent with these Terms are expressly rejected by the Supplier. Any variations to these Terms not expressly agreed to in writing by the Supplier are

expressly rejected by the Supplier.

3.3 A quotation shall not constitute an offer to provide Services to the Customer. No contract for provision

of Services shall exist between the Supplier and the Customer unless the Customer's order for Services has been accepted by the Supplier. The Supplier may accept or refuse any order for Services in its absolute discretion.

3.4 Once an order from a Customer has been accepted by the Supplier:

a) the order cannot be cancelled by the Customer without the written consent of the Supplier;

and

b) the order cannot be varied by the Customer anytime after 4 hours of the Customer submitting the order to the Supplier.

3.5 The Supplier may vary these Terms by notice in writing to the Customer. The Customer agrees that the purchase of Services after the date of a notice of variation will be deemed to be an acceptance of such varied Terms.

3.7 Any order received by the Supplier from the Customer for the supply of Services and the Customer's acceptance of Services supplied by the Supplier shall constitute acceptance of these Terms.

3.8 Upon acceptance of these Terms by the Customer the Terms are irrevocable and can only be varied in accordance with

these Terms.

3.9 The Supplier's agents or representatives are not authorised to make any representations, or statements on behalf of the Supplier (including any purporting to vary these Terms or enter further agreements) and the Supplier shall not be liable for any unauthorised representations or statements made by the Supplier's agents or representatives.

3.10 In the event that the whole or any part or parts of any provisions in these Terms should be held to be void or unenforceable in whole or in part such provision or part thereof shall to that extent be severed from these Terms but the validity and enforceability of the remainder of these Terms shall not be effected.

3.11 The Supplier reserves the right to sub-contract provision of Services or any part thereof to a third party.

3.12 The Supplier shall be under no liability whatsoever to the Customer or any third party for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer or third party arising out of a breach by the Supplier of these Conditions.

3.13 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

3.14 The failure by the Supplier to enforce any provision of these Terms shall not be treated as a waiver of that provision, nor shall it affect the Supplier's right to subsequently enforce that provision.

3.15 These Terms and the supply of provision of Services by the Supplier to the Customer shall be governed by and construed in accordance with the laws of New South Wales.

3.16 Notice to be given by the Customer to the Supplier may be delivered personally or sent to the Supplier at its current business address. Notices to be given to the Customer by the Supplier may be delivered personally, or sent to the Customer's last known address provided by the Customer to the Supplier and unless the contrary is proved shall be taken as delivered on the second business day following posting. Invoices and statements are deemed received by the Customer on the second business day after posting by ordinary prepaid post.

3.17 Notice to be given by the Customer to the Supplier may be delivered personally or sent to the Supplier at its current business address. Notices to be given to the Customer by the Supplier may be delivered personally, or sent to the Customer's last known address provided by the Customer to the Supplier and unless the contrary is proved shall be taken as delivered on the second business day following posting. Invoices and statements are deemed received by the Customer on the second business day after posting by ordinary prepaid post.

4. LABOUR HIRE

4.1 The minimum Labour Hire period payable by the Customer is 8 hours.

4.2 The Customer will provide the Labour Hire with any specific tools, equipment and consumables so required to allow the performance of the work required of the Labour Hire unless the Customer requests the Supplier to inform the Labour Hire to provide their own specific tools, equipment and consumables. If so, additional charges will apply to the tools, equipment and consumables that the Supplier supplies via the Labour Hire to the Customer.

4.3 The Customer will provide no less than 8 hours notice of cancellation or notice of postponement to the Supplier. If such notification is made with less than 8 hours notice being given to the Supplier, a minimum of 4 hours' cost will be payable by the Customer.

4.4 In the event of inclement weather or any other emergency when a full schedule of work (8 hours) is not accomplished by the Labour Hire, a minimum of 4 hours' cost will be payable by the Customer.

4.5 The Customer recognises that the Supplier makes every effort to maintain high standards of integrity and reliability among the Labour Hire. However, the Supplier does not accept responsibility for any claim, damage, expense or delay arising from any failure by itself to provide

the Customer with Labour Hire for all or part of a booking or from any lack of skill, negligence

4.6 The hourly rate for Labour Hire payable by the Customer must be agreed upon between the Supplier and the Customer, by email, sms or in written format. Acceptance by the Customer of Services that include Labour Hire is deemed to also be acceptance of such reasonable Labour Hire hourly rate as determined by the Supplier in its sole discretion, where no explicit rejection, by email, sms or written, of such hourly rates has been provided by the Customer. To be clear, the hourly rate of Labour Hire will not be less than the hourly rate of pay that the Customer's employees and/or contractors receive for performing the same or substantially similar work to that to be performed by the Labour Hire.

4.7 The Customer must comply with all laws applicable to each site at which Labour Hire is utilised, including in relation to the property, plant and equipment made available by the Customer and those employees of the Customer who work with the Labour Hire. Without limiting the generality of this requirement, the Customer is responsible for all inspections, permits and approvals required by law.

4.8 Whilst the Supplier will use all reasonable endeavours to meet the Customer's requirements and ensure the quality of the Labour Hire, the Supplier is not liable for any loss or damage (including consequential loss or damage)

arising from any negligence, dishonesty, carelessness or lack of skill of the Labour Hire.

4.9 To the extent that the Supplier's liability cannot be limited as provided in these Terms, the Supplier's liability is limited to the Supplier supplying the Services again or paying the actual market value cost of replacing the supply of the Services.

4.10 The Customer is responsible for the care and supervision of the Labour Hire whilst they are providing Services to the Customer.

4.11 The Customer is responsible for providing a safe and healthy workplace, and safe systems of work, for the Labour Hire.

4.12 The Customer acknowledges and agrees that it will comply with all applicable occupational, health, safety, environmental and associated legislation, regulations and codes of practice.

4.13 The Customer acknowledges and agrees that it will provide a comprehensive structured site and job safety induction for the Labour Hire.

4.14 The Supplier may, from time to time, attend the Customer's site for the purpose of carrying out occupational health and safety inspections, safety/ toolbox meetings with the Labour Hire on site and the investigation of incidents and injuries.

4.15 The Customer is responsible for providing a workplace that complies with

all other legal requirements relating to the work environment.

5. PRICING AGREEMENT

5.1 The Prices of Services shall be indicated on any email quotation, invoice provided by the Supplier to the Customer in respect of Services supplied.

5.2 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that the taxes and duties are expressly included in any quotation given by the Supplier.

5.3 The Customer must immediately check all Prices, and any disputes in relation to those Prices must be communicated to the Supplier in writing within 7 days of the invoice date. In the event that no communication is received from the Customer within that 7 day period, the Prices are deemed to be accepted by the Customer.

5.4 The Prices for Services is calculated by multiplying the number of days or weeks in the hire period by the daily rate or weekly rate.

6.5 In relation to Services that include Labour Hire, the following applies:

a) The Supplier will render invoices to the Customer for the Labour Hire at intervals as it sees

fit upon receipt of any timesheets in

respect of the Labour Hire who have prepared those timesheets. The Customer agrees to pay such invoices in accordance with any payment terms identified on those invoices or these Terms.

b) All such invoices are a claim for payment under the Building and Construction Industry Security of Payment Act 1999.

5.6 Where the Price of Services

has been quoted by the Supplier that Price shall be binding upon the Supplier provided that the Services are provided to the Customer, and accepted by the Customer, within seven (7) days of the invoice, quotation. The Customer agrees to pay those Prices.

6. ACCOUNT TERMS

6.1 If the Customer does not pay the Supplier by the due date, the Customer shall pay interest on monies due, charged on a daily basis at 12% per annum from the date of the invoice until the actual date of payment.

6.2 If the Customer does not pay the Supplier by the due date, the Customer shall pay to the Seller an administration fee which shall be the greater of \$50.00 or 10.00% of the amount overdue on an unpaid invoice. The Customer and the Supplier agree that the administration fee is a reasonable liquidated cost of administering an abnormal payment and the Supplier may debit the Customer at such other times that it chooses for such administration fees.

6.3 The Customer shall pay any legal costs (on a solicitor/Customer indemnity basis), stamp duties and other expenses payable on these Terms or any credit application, guarantee or other security documents

signed by the Customer together with all collection costs including legal fees (on a solicitor/Customer indemnity basis) and dishonoured cheque fees suffered or incurred by the Supplier in connection with the supply of Services by the Supplier.

7. INTELLECTUAL PROPERTY

7.1 Where the Supplier has designed, drawn, written, prepared, manufactured Goods for the Customer, then the copyright (or any other attaching intellectual property right) in those designs and drawings, prototypes, productions, documents and Goods shall remain vested in the Supplier, and shall only be used by the Customer at the Supplier's discretion.

Where the Customer has supplied drawings, designs or concepts for Goods to be supplied by the Supplier, the Customer warrants that all designs or instructions provided to the Supplier will not cause the Supplier to infringe any patent, registered design or trademark in the execution of the Customer's order, and the Customer agrees to indemnify the Supplier against any action taken by a third party against the Supplier in respect of any such infringement.

8. GST

8.1 In this clause the expressions "GST", "Input tax credit", "tax invoice", "recipient" and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.

8.2 With the exception of any amount payable under this clause, unless otherwise expressly stated all amounts stated to be payable by Customer under these Terms are exclusive of GST. acknowledgement shall be conclusive evidence of the Customer's acceptance of the Goods delivered.

8.3 If GST is imposed on any supply made under or in accordance with these Terms, the recipient of the taxable supply must pay the Supplier an additional amount equal to the GST payable on or for taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply subject to the provision of a tax invoice.

9. SERVICE

9.1 The Customer agrees that the Supplier relies on the instructions, directions, information, skill and judgement provided to the Supplier by the Customer in order for the Supplier to provide the Services. The Customer agrees that it does not rely on the information, skill or judgment of the Supplier in relation to the provision of any Services, including Labour Hire. Any advice, recommendation, information or assistance provided by the Supplier in relation to the Services, including Labour

Hire, is provided without any liability by the Supplier whatsoever.

9.2 The Customer will have in place all necessary insurance for the provision Services to the Customer by the Supplier in order to cover any loss, damage or costs suffered or incurred by either the Customer or the Supplier as a result of the provision of Services.

9.3 If the Supplier is unable to provide the Services to the Customer, Supplier will not be liable for any claims arising out of the Supplier's inability to provide the Services to the Customer. This is in addition to the Supplier's rights to decline to provide the Services to the Customer.

9.4 The Customer acknowledges that the Supplier may immediately cancel provision of Services to which these Terms apply at any time before the particular Services to which these Terms relates are provided by giving written notice to the Customer. The Supplier will not be liable for any loss or damage whatsoever arising from such cancellation.

9.5 If the Customer (or any entity related to the Customer) has contact with an employee of the Supplier through or in connection with the provision of Services, and thereafter employs or engages that employee during or within 12 months of those Services being performed, then the Customer agrees that it will pay to the Supplier a placement fee. The placement fee is calculated by reference to 10% of the employee's anticipated remuneration with

the Supplier. The Supplier can waive the placement fee in its absolute discretion.

10. LIMITATION OF LIABILITY AND INDEMNITY

10.1 The Supplier agrees that all Services shall be at the Customer's sole risk and the Supplier will not be liable for any loss, damage or injury that the Customer may incur or that may arise from any cause whatsoever including any fault provision of Services.

10.2 The Customer agrees that the Supplier is not liable for any special, indirect or consequential loss arising in any way in respect of Services provided and this exclusion of liability applies whether that loss or liability arises at general law or under these Terms and whether or not including loss or liability arising as a consequence of negligence.

10.3 The Supplier is not liable for any loss or damage to any property or for death or personal injury (to the Customer's personal or any another person) caused or contributed to by the Labour Hire (whether by negligence or otherwise) during the provision of any Services to the Customer.

10.4 Without limiting the Supplier's liability at law in tort, the Customer agrees to indemnify, and keep indemnified, the Supplier and its directors, officers, agents and assigns against any liability for any claims made against the Supplier, or employees, arising out of or in connection with any breach by the Customer of this application or these Terms, or any loss,

damage or injury suffered by a third party, caused by any negligence, or deliberate act, by the Labour Hire in the course of performing Services for the Customer.

10.5 Where the Supplier gives advice, recommendations, information, assistance and to the Customer regarding the suitability or purpose of Services, or in

connection with the design, delivery times, dimensions, installation or use of the Goods and/or Services, then it is given in good faith and the Supplier shall not be liable in any way whatsoever for any damages, losses or costs however arising resulting from the Customer relying on any such advice, recommendations, information, assistance and/or service.

