

1. Definitions

- 1.1 "SCP" means Sydney Central Plumbing Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Sydney Central Plumbing Pty Ltd.
- 1.2 "Client" means the person/s ordering the Works as specified in any invoice, document or order, and if there is more than one Client is a reference to each Client jointly and severally.
- 1.3 "Works" means all Works or Materials supplied by SCP to the Client at the Client's request from time to time (where the context so permits the terms 'Works' or 'Materials' shall be interchangeable for the other).
- 1.4 "Price" means the Price payable for the Works as agreed between SCP and the Client in accordance with clause 4 below.

2. Acceptance

- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of any Works.
- 2.2 These terms and conditions may only be amended with SCP's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and SCP.
- 2.3 In the event that SCP is required to provide the Works urgently, that may require SCP's staff to work outside normal business hours, which are Monday – Friday (including but not limited to working, through lunch breaks, weekends and/or Public Holidays) then SCP reserves the right to charge the Client additional labour costs (penalty rates will apply), unless otherwise agreed between SCP and the Client.

3. Change in Control

- 3.1 The Client shall give SCP not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by SCP as a result of the Client's failure to comply with this clause.

4. Price and Payment

- 4.1 At SCP's sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by SCP to the Client in respect of Works performed or Materials supplied; or
 - (b) SCP's quoted Price (subject to clause 4.2) which shall be binding upon SCP provided that the Client shall accept SCP's quotation in writing within thirty (30) days.
- 4.2 SCP reserves the right to change the Price:
 - (a) if a variation to the Materials which are to be supplied is requested; or
 - (b) if a variation to the Works originally scheduled (including any applicable plans or specifications) is requested; or
 - (c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, poor weather conditions, limitations to accessing the site, hard rock barriers below the surface or iron reinforcing rods in concrete, availability of machinery, safety considerations, prerequisite work by any third party not being completed, change of design, hidden pipes etc) which are only discovered on commencement of the Works; or
 - (d) in the event of increases to SCP in the cost of labour or materials (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) which are beyond SCP's control.
- 4.3 At SCP's sole discretion a deposit may be required.
- 4.4 Time for payment for the Works being of the essence, the Price will be payable by the Client on the date/s determined by SCP, which may be:
 - (a) on completion of the Works; or
 - (b) by way of progress payments in accordance with SCP's specified progress payment schedule. Such progress payment claims may include the reasonable value of authorised variations and the value of any Materials delivered to the site but not yet installed; or
 - (c) fourteen (14) days following the date of the invoice;
 - (d) the date specified on any invoice or other form as being the date for payment; or
 - (e) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by SCP.
- 4.5 No allowance has been made in the Price for the deduction of retentions. In the event that retentions are made, SCP reserves the right to treat retentions as placing the Client's account into default.
- 4.6 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to five percent (5%) of the Price), or by any other method as agreed to between the Client and SCP.
- 4.7 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to SCP an amount equal to any GST SCP must pay for any supply by SCP under this or any other agreement for the sale of the Materials. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

5. Delivery of the Works

- 5.1 At SCP's sole discretion delivery of the Works shall take place when SCP performs the Works at the Client's nominated address.
- 5.2 At SCP's sole discretion the cost of delivery is included in the Price.
- 5.3 Subject to clause 5.4 it is SCP's responsibility to ensure that the Works start as soon as it is reasonably possible.

- 5.4 The Works commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that SCP claims an extension of time (by giving the Client written notice) where completion is delayed by an event beyond SCP's control, including but not limited to any failure by the Client to:
- (a) make a selection; or
 - (b) have the site ready for the Works; or
 - (c) notify SCP that the site is ready.
- 5.5 At SCP's sole discretion, the costs of delivering the Works are in addition to the Price and will be assessed according to the distance that needs to be travelled to the nominated address.
- 5.6 Delivery of the Works to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 5.7 SCP may deliver the Works by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 5.8 Subject to clause 5.9, SCP agrees to hand over sections of the Works as and when installed to the Client's representative on site. The Client shall accept such handovers and agrees that such sections thereafter shall be at the Client's risk and be deemed to be practically complete.
- 5.9 If the Client requests that SCP cease or defer any Works prior to completion of a section then SCP will immediately stop all Works and shall hand over the relevant section of the Works to the Client's representative on site. All such sections handed over in accordance with this clause shall be deemed practically complete and at the Client's risk from the time of hand over.
- 5.10 Any time or date given by SCP to the Client is an estimate only. SCP shall not be liable for any loss or damage whatsoever due to failure by SCP to deliver the Works (or any part of them) promptly or at all, where due to circumstances beyond the reasonable control of SCP.

6. Risk

- 6.1 If SCP retains ownership of the Materials under clause 9.1 then;
- (a) where SCP is supplying Materials only, all risk for the Materials shall immediately pass to the Client on delivery and the Client must insure the Materials on or before delivery. Delivery of the Materials shall be deemed to have taken place immediately at the time that either;
 - (i) the Client or the Client's nominated carrier takes possession of the Materials at SCP's address; or
 - (ii) the Materials are delivered by SCP or SCP's nominated carrier to the Client's nominated delivery address (even if the Client is not present at the address).
 - (b) where SCP is to both supply and install Materials then SCP shall maintain a contract works insurance policy until the Works are completed. Upon completion of the Works all risk for the Works shall immediately pass to the Client.
- 6.2 Notwithstanding the provisions of clause 6.1 if the Client specifically requests SCP to leave Materials outside SCP's premises for collection or to deliver the Materials to an unattended location then such materials shall always be left at sole risk of the Client and it shall be the Client's responsibility to ensure the Materials are insured adequately or at all. In the event that such Materials are lost, damaged or destroyed then replacement of the Materials shall be at the Client's expense.
- 6.3 The Client acknowledges that the presence of plant or tree root growth and/or other blockages may indicate damaged pipe work and therefore where SCP is requested to merely clear such blockages, SCP can offer no guarantee against reoccurrence or further damage. In the event of collapse during the pipe clearing process, SCP will immediately advise the SCP of the same and shall provide the Client with an estimate for the full repair of the damaged pipe work.
- 6.4 The Client acknowledges that in the event **asbestos** or any other toxic substances are discovered at the worksite that it is their responsibility to ensure the safe removal of the same. The Client further agrees to indemnify SCP against any costs incurred by SCP as a consequence of such discovery. Under no circumstances will SCP handle removal of asbestos product.
- 6.5 SCP is not responsible for the removal of rubbish from or clean-up of the building/constructions site/s. All rubbish generated by SCP will be placed in a designated areas appointed by the Client but the responsibility of removal of same is the Client or the Client's agent.

7. Damages

- 7.1 SCP shall not be liable for any loss or damage caused in accessing the work site beyond reasonable control of SCP (including, without limitation, to ceiling tiles and panels, face brickwork and rendered masonry services, pathways, driveways and concreted or paved or grassed areas) which SCP may have to break into or disturb in performance of the Works), unless due to the negligence of SCP.

8. Hidden Works & Services

- 8.1 Location of underground services by a licensed service locator is mandatory prior to commencement of any works. "Dial Before You Dig" must be consulted and any potential underground services marked on site. Whilst SCP will take all care to avoid damage to any underground services the Client agrees to indemnify SCP in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified. If the Client requests SCP to engage the service locator then this shall be in addition to the Price.

9. Client's Responsibilities

- 9.1 It is the Client's responsibility to;
- (a) remove all fragile items such as glassware, crockery, pot plants, furniture and ornaments. Breakages and damages are the responsibility of the Client. All care taken but no responsibility accepted by SCP in this regard; and
 - (b) supply power to within eight (8) metres of the project; and

- (c) make the premises available on the agreed date and time. If installation is interrupted by the failure of the Client to adhere to the installation schedule agreed to between SCP and the Client, any additional costs will be invoiced to the Client as an extra.
 - (d) SCP is not insured to remove furniture or fittings and will not do so.
- 9.2 It is further agreed that:
- (a) the Client will supply temporary lighting, toilet, eating and first aid facilities if required; and
 - (b) the Client will advise all amenity locations (including without limitation, water, gas, electricity, telephone or any other underground amenity) to SCP prior to delivery.
- 9.3 SCP may at its discretion notify the Client that it requires to store at the worksite Materials, fittings and appliances, or plant and tools required for the Works, in which event the Client shall supply SCP a safe area for storage and shall take all reasonable efforts to protect all items so stored from possible destruction, theft or damage. In the event that any such items are destroyed, stolen or damaged then the cost of repair or replacement shall be the Client's responsibility.
- 9.4 The Client accepts and acknowledges their responsibility to ensure that all persons (including, but not limited to any gardening or lawn mowing contractors), are made aware of any plumbing Works present within the garden, lawns, rockery beds and surrounds. SCP will under no circumstances be held liable for any damage to plumbing Works installed by SCP caused by any third party.

10. Title

- 10.1 SCP and the Client agree that ownership of the Materials shall not pass until:
- (a) the Client has paid SCP all amounts owing to SCP; and
 - (b) the Client has met all of its other obligations to SCP.
- 10.2 Receipt by SCP of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 10.3 It is further agreed that:
- (a) until ownership of the Materials passes to the Client in accordance with clause 10.1 that the Client is only a bailee of the Materials and unless the Materials have become fixtures must return the Materials to SCP on request.
 - (b) the Client holds the benefit of the Client's insurance of the Materials on trust for SCP and must pay to SCP the proceeds of any insurance in the event of the Materials being lost, damaged or destroyed.
 - (c) the production of these terms and conditions by SCP shall be sufficient evidence of SCP's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with SCP to make further enquiries.
 - (d) the Client must not sell, dispose, or otherwise part with possession of the Materials other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Materials then the Client must hold the proceeds of any such act on trust for SCP and must pay or deliver the proceeds to SCP on demand.
 - (e) the Client should not convert or process the Materials or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of SCP and must sell, dispose of or return the resulting product to SCP as it so directs.
 - (f) unless the Materials have become fixtures the Client irrevocably authorises SCP to enter any premises where SCP believes the Materials are kept and recover possession of the Materials.
 - (g) SCP may recover possession of any Materials in transit whether or not delivery has occurred.
 - (h) the Client shall not charge or grant an encumbrance over the Materials nor grant nor otherwise give away any interest in the Materials while they remain the property of SCP.
 - (i) SCP may commence proceedings to recover the Price of the Materials sold notwithstanding that ownership of the Materials has not passed to the Client.

11. Personal Property Securities Act 2009 ("PPSA")

- 11.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 11.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Materials that have previously been supplied and that will be supplied in the future by SCP to the Client.
- 11.3 The Client undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which SCP may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 11.3(a)(i) or 11.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, SCP for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Materials charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of SCP;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Materials in favour of a third party without the prior written consent of SCP; and
 - (e) immediately advise SCP of any material change in its business practices of selling the Materials which would result in a change in the nature of proceeds derived from such sales.

- 11.4 SCP and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 11.5 The Client hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 11.6 The Client waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 11.7 Unless otherwise agreed to in writing by SCP, the Client waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 11.8 The Client shall unconditionally ratify any actions taken by SCP under clauses 11.3 to 11.5.
- 11.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

12. Security and Charge

- 12.1 In consideration of SCP agreeing to supply the Materials, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 12.2 The Client indemnifies SCP from and against all SCP's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising SCP's rights under this clause.
- 12.3 The Client irrevocably appoints SCP and each director of SCP as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Client's behalf.

13. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 13.1 The Client must inspect all Materials on delivery (or the Works on completion) and must within seven (7) days of delivery notify SCP in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Client must notify any other alleged defect in the Materials/Works as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow SCP to inspect the Materials or to review the Works provided.
- 13.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 13.3 SCP acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 13.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, SCP makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Materials/Works. SCP's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 13.5 If the Client is a consumer within the meaning of the CCA, SCP's liability is limited to the extent permitted by section 64A of Schedule 2.
- 13.6 If SCP is required to replace any Materials under this clause or the CCA, but is unable to do so, SCP may refund any money the Client has paid for the Materials.
- 13.7 If SCP is required to rectify, re-supply, or pay the cost of re-supplying the Works under this clause or the CCA, but is unable to do so, then SCP may refund any money the Client has paid for the Works but only to the extent that such refund shall take into account the value of Works and Materials which have been provided to the Client which were not defective.
- 13.8 If the Client is not a consumer within the meaning of the CCA, SCP's liability for any defect or damage in the Materials is:
 - (a) limited to the value of any express warranty or warranty card provided to the Client by SCP at SCP's sole discretion;
 - (b) limited to any warranty to which SCP is entitled, if SCP did not manufacture the Materials;
 - (c) otherwise negated absolutely.
- 13.9 Subject to this clause 13, returns will only be accepted provided that:
 - (a) the Client has complied with the provisions of clause 13.1; and
 - (b) SCP has agreed that the Materials are defective; and
 - (c) the Materials are returned within a reasonable time at the Client's cost (if that cost is not significant); and
 - (d) the Materials are returned in as close a condition to that in which they were delivered as is possible.
- 13.10 Notwithstanding clauses 13.1 to 13.9 but subject to the CCA, SCP shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
 - (a) the Client failing to properly maintain or store any Materials;
 - (b) the Client using the Materials for any purpose other than that for which they were designed;
 - (c) the Client continuing to use any Materials after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) interference with the Works by the Client or any third party without SCP's prior approval;
 - (e) the Client failing to follow any instructions or guidelines provided by SCP;
 - (f) fair wear and tear, any accident, or act of God.
- 13.11 SCP may in its absolute discretion accept non-defective Materials for return in which case SCP may require the Client to pay handling fees of up to twenty-five percent (25%) of the value of the returned Materials plus any freight costs.
- 13.12 Notwithstanding anything contained in this clause if SCP is required by a law to accept a return then SCP will only accept a return on the conditions imposed by that law.

14. Intellectual Property

- 14.1 Where SCP has designed, drawn, written plans or a schedule of Works, or created any products for the Client, then the copyright in all such designs, drawings, documents, plans, schedules and products shall remain vested in SCP, and shall only be used by the Client at SCP's discretion.
- 14.2 The Client warrants that all designs, specifications or instructions given to SCP will not cause SCP to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify SCP against any action taken by a third party against SCP in respect of any such infringement.

15. Default and Consequences of Default

- 15.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at SCP's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 15.2 If the Client owes SCP any money the Client shall indemnify SCP from and against all costs and disbursements incurred by SCP in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, SCP's collection agency costs, and bank dishonour fees).
- 15.3 Without prejudice to any other remedies SCP may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions SCP may suspend or terminate the supply of Works to the Client. SCP will not be liable to the Client for any loss or damage the Client suffers because SCP has exercised its rights under this clause.
- 15.4 Without prejudice to SCP's other remedies at law SCP shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to SCP shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to SCP becomes overdue, or in SCP's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client becomes insolvent or bankrupt, 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
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

16. Compliance with Laws

- 16.1 The Client and SCP shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Works.
- 16.2 The Client shall obtain (at the expense of the Client) all licenses and approvals that may be required for the Works.
- 16.3 The Client agrees that the site will comply with any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation.

17. Insurance

- 17.1 SCP holds the following insurances and warrants that such insurance is current, and is sufficient for the Works being carried out under this contract.
- (a) Public Liability Insurance;
 - (b) Employer's Liability and Worker's Compensation Insurance;
 - (c) Property Damage Insurance and insurance for the Works.

18. Cancellation

- 18.1 SCP may cancel any contract to which these terms and conditions apply or cancel delivery of Works at any time before the Works are commenced by giving written notice to the Client. On giving such notice SCP shall repay to the Client any sums paid in respect of the Price, less any amounts owing by the Client to SCP for Works already performed. SCP shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 18.2 In the event that the Client cancels the delivery of Works the Client shall be liable for any and all loss incurred (whether direct or indirect) by SCP as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 18.3 Cancellation of orders for products made to the Client's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

19. Privacy Act 1988

- 19.1 The Client agrees for SCP to obtain from a credit reporting agency a credit report containing personal credit information about the Client in relation to credit provided by SCP.
- 19.2 The Client agrees that SCP may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:
- (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Client.
- The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.
- 19.3 The Client consents to SCP being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

- 19.4 The Client agrees that personal credit information provided may be used and retained by SCP for the following purposes (and for other purposes as shall be agreed between the Client and SCP or required by law from time to time):
- (a) the provision of Works; and/or
 - (b) the marketing of Works by SCP, its agents or distributors; and/or
 - (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Works; and/or
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - (e) enabling the daily operation of Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Works.
- 19.5 SCP may give information about the Client to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Client;
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.
- 19.6 The information given to the credit reporting agency may include:
- (a) personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
 - (b) details concerning the Client's application for credit or commercial credit and the amount requested;
 - (c) advice that SCP is a current credit provider to the Client;
 - (d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
 - (e) that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
 - (f) information that, in the opinion of SCP, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Client's credit obligations);
 - (g) advice that cheques drawn by the Client for one hundred dollars (\$100) or more, have been dishonoured more than once;
 - (h) that credit provided to the Client by SCP has been paid or otherwise discharged.

20. Building and Construction Industry Security of Payments Act 1999

- 20.1 At SCP's sole discretion, if there are any disputes or claims for unpaid Materials and/or Works then the provisions of the Building and Construction Industry Security of Payments Act 1999 may apply.
- 20.2 Nothing in this agreement is intended to have the affect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payments Act 1999 of New South Wales, except to the extent permitted by the Act where applicable.

21. General

- 21.1 The failure by SCP to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect SCP's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 21.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which SCP has its principal place of business, and are subject to the jurisdiction of the Ryde Court in that state.
- 21.3 Subject to clause 13 SCP shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by SCP of these terms and conditions (alternatively SCP's liability shall be limited to damages which under no circumstances shall exceed the Price of the Works).
- 21.4 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 SCP nor to withhold payment of any invoice because part of that invoice is in dispute.
- 21.5 SCP may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 21.6 The Client agrees that SCP may amend these terms and conditions at any time. If SCP makes a change to these terms and conditions, then that change will take effect from the date on which SCP notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for SCP to provide any Works to the Client.
- 21.7 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.
- 21.8 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.