

## STANDARD TERMS AND CONDITIONS

### INTERPRETATION

In these Standard Terms and Conditions:

- (a) *DGH Design and Fabrication Services* means DGH Design and Fabrication Services Pty Ltd A.C.N. 684 719 300;
- (b) *Client* means the Client requesting that the Works be completed by Us.
- (c) *Contract* means the Contract to be entered into between Us and the Client for the Works.
- (d) *We, Us, or Our* means DGH Design and Fabrication Services and includes our servants, agents and employees;
- (e) *Works* mean all work or services performed by Us in accordance with instructions provided by the Client.

### TERMS OF PAYMENT

Weekly progress payments for Works performed on and off site and/or progress material deliveries will be claimed and are to be paid within thirty (30) days of the date of Our claim and invoice. DGH Design and Fabrication Services Pty Ltd A.C.N. 684 719 300 (hereafter referred to as "DGH Design and Fabrication Services") may elect to utilise the security of payments provisions as provided for under the *Building Industry Fairness (Security of Payment) Act 2017 (Qld)*.

### VALIDITY

Any tender offer submitted by DGH Design and Fabrication Services shall remain open for a period of thirty (30) days from the date of the tender offer ("validity period"), after which the tender offer shall lapse and any subsequent acceptable shall be subject to Our review and written confirmation.

### FEES TO PUBLIC AUTHORITIES

We have made no allowance for any fees to public or local authorities such as connection fees and/or any bonds that may be applicable. Unless agreed in writing and subject to Our review and right to amend, We would require the Client to make such relevant applications and pay all fees.

### LIQUIDATED DAMAGES AND OTHER LIABILITIES

In no event shall DGH Design and Fabrication Services be liable under the Contract for the Works for any loss of profit, loss of revenue, loss of contracts, loss of production or any indirect or consequential loss or damage except to the extent not permitted by law.

### SITE ALLOWANCE AND WORKING HOURS

No allowance has been made for any special site allowances whether agreed between the principal and the unions or as otherwise awarded for the Works. Any allowances so agreed will be treated and charged as a variation to the Contract including any award and other associated loadings.

### GENERAL CONDITIONS OF CONTRACT

DGH Design and Fabrication Services notes that the tender documents did not include in full the general conditions of the Contract and as such We advise that Our tender offer has been prepared in accordance with AS2545 (subcontract conditions for supply and install) and/or AS4303 (subcontract conditions for design, supply and install). Should Our tender offer be acceptable, We would be willing to enter into a mutually agreed Contract.

### CONTRACT REVIEW

DGH Design and Fabrication Services has not fully evaluated the Contract conditions and reserves the right to negotiate a mutually agreed Contract should We be the successful tenderer.

### BACK CHARGE AND COST OFFSETTING

Should the Client claim back charges or wish to cost offset for services provided or damages caused by DGH Design and Fabrication Services, We will require:

- (a) Notice in writing within two business (2) days of the back charge or cost offset event occurring; and
- (b) The opportunity to repair or remedy the back charge or cost offset event within a reasonable period

It is agreed between DGH Design and Fabrication Services and the Client that no charge can be claimed, and no monies withheld from DGH Design and Fabrication Services unless procedures (a) and (b) are first implemented by the Client. If DGH Design and Fabrication Services fails to repair or remedy within a reasonable period, the Client may then proceed to claim for costs or withhold monies



### **AS BUILT DRAWINGS**

We have allowed for marking up ("redlining") Client provided drawings.

### **PRICE BREAKDOWN**

The amounts detailed in the schedule of rates/prices are primarily a breakdown of the firm lump sum price for accounting purposes and are intended to reflect the broad breakup of the scope of work into recognisable and manageable areas of Works for the assessment of progress payments only and cannot be separated without cost adjustment.

### **SCOPE OF WORK**

DGH Design and Fabrication Services reserves the right to re-quote the Works if changes to the scope of work result in a change of plus or minus 10% of the value of the Works. DGH Design and Fabrication Services all notify the Client in writing if it believes the scope of work has altered by more or less than 10%, and shall provide a revised quotation.

### **VARIATIONS**

Notwithstanding any clause in the Contract or elsewhere regarding valuation of variation, We advise that all variations shall be valued and approved prior to the expiry of four (4) weeks after receiving a quotation from DGH Design and Fabrication Services for the varied Works. DGH Design and Fabrication Services shall notify the Client promptly of any additional site allowances arising and shall not proceed without the Client's written approval, which shall not be unreasonably withheld or delayed. No variation Works will be carried out until approval in writing has been received by DGH Design and Fabrication Services. Should a variation be required to be carried out on a day work basis we would require labour and supervision at the nominated agreed rates. Material, freight and storage costs will attract a mark-up of 10%, being 5% overhead and 5% gross profit.

### **ERRORS AND OMISSIONS**

Should any errors and omissions be discovered during the validity period we reserve the right to vary Our tender offer (including price) to correct such errors or omissions, provided notice is given to the Client as soon as practicable.

### **OCCUPATIONAL HEALTH AND SAFETY**

DGH Design and Fabrication Services is committed to providing a healthy and safe workplace for all its employees, subcontractors and visitors and we will conduct Our Works with DGH Design and Fabrication Services' Occupational Health and Safety standards in compliance with relevant legislation and regulations to ensure the health, safety and welfare of all employees, subcontractors and visitors. The Client agrees to provide a safe site and to furnish DGH Design and Fabrication Services with any site-specific Occupational Health and Safety rules before commencing the Works.

### **OCCUPATIONALS HEALTH AND SAFETY COSTS**

We have made no allowance for any cost arising out of any safety/site specific procedures to be implemented by the Client as we are not in receipt of site health and safety procedures at the time of submitting the tender offer.

### **CONFIDENTIALITY**

The technical pricing and other information contained in the tender offer is proprietary to DGH Design and Fabrication Services (which extends to include any related corporation, its contractors and agents), is confidential, trade sensitive and is submitted solely for the purpose of allowing DGH Design and Fabrication Services to participate in the assessment process of the tender and for the purpose of evaluating a possible transaction or relationship between the Client and DGH Design and Fabrication Services ("purpose").

For the purposes of these terms and conditions:-

"confidential information" shall include all information included in the tender offer, data, materials, products, technology, computer programs, specifications, manuals, business plans, software, marketing plans, financial information, and other information disclosed or submitted, orally, in writing, or by any other media, to the Client by DGH Design and Fabrication Services.

"representative" means directors, officers, employees, agents, and financial, legal, and other advisors.

Your acceptance of this tender offer is an acceptance of the following:

- (a) The confidential information shall be kept strictly confidential and shall not be photocopied or reproduced in any way and otherwise shall be used solely for the purpose.
- (b) The confidential information shall not be disclosed, either directly or indirectly, to any third party without the prior consent of DGH Design and Fabrication Services, including to any competitor of DGH Design and Fabrication Services and in particular any competitor involved in the assessment process of the tender provided that, subject to "Permitted Disclosures" below, the confidential information may be released to relevant representatives on a need-to-know basis.



- (c) Where, with DGH Design and Fabrication Services' consent, the confidential information is disclosed to a third party for the purpose reasonably connected with the tendering assessment, it will be a condition of that consent (whether stated or not) that such third party accept and acknowledge to be bound by these confidentiality obligations.
- (d) The Client understands and acknowledges that any disclosure or misappropriation of any of the confidential information in violation of these terms and conditions may cause irreparable harm to DGH Design and Fabrication Services, the amount of which may be difficult to ascertain, and therefore agrees that DGH Design and Fabrication Services shall have the right to apply to a court of competent jurisdiction for specific performance and/or an order restraining and enjoining any such further disclosure and for such other relief that DGH Design and Fabrication Services shall deem appropriate. Such right is to be in addition to the remedies otherwise available to DGH Design and Fabrication Services at law or in equity.
- (e) The Client hereby agrees to indemnify DGH Design and Fabrication Services against any loss, damages, claims, expenses, and legal fees incurred or suffered by DGH Design and Fabrication Services as a result of a breach of these terms and conditions.
- (f) The Client shall not disclose any confidential information as stated in this clause by any means, except as permitted or required under these terms and conditions and shall hold and maintain the confidential information in strictest confidence.
- (g) If the tender offer is not accepted, the Client shall, at that time or at any time upon the request of DGH Design and Fabrication Services for any reason, return to DGH Design and Fabrication Services any and all records, notes, and other written, printed or other tangible materials in its possession pertaining to the confidential information. The return of the confidential information or materials shall not relieve the Client from compliance with these terms and conditions.
- (h) The obligations under these terms and conditions continue for seven (7) years after termination of the Contract unless otherwise stated.
- (i) The obligations under these terms and conditions shall not be affected by bankruptcy, receivership, assignment, attachment, or seizure procedures, howsoever initiated, nor by the rejection of any agreement between the parties or by a trustee of the Client in bankruptcy.

#### ***Permitted Disclosures***

Confidential information may be disclosed to a representative with a bona fide need to know such confidential information, but only to the extent necessary to evaluate or carry out a proposed transaction or relationship with DGH Design and Fabrication Services and only if such employees are advised of the confidential nature of such confidential information and these terms and conditions and are bound by a written agreement or by a legally enforceable code of professional responsibility to protect the confidentiality of such confidential information.

#### ***Required Disclosures***

The Client may disclose the confidential information if and to the extent that such disclosure is required by court order, provided that the Client provides DGH Design and Fabrication Services with a reasonable opportunity to review the disclosure before it is made and to interpose its own objection to the disclosure. DGH Design and Fabrication Services will not unreasonably withhold approval or delay response if court order requires timely disclosure.

#### ***No Licence***

Nothing contained herein shall be construed as granting or conferring any rights by license or otherwise in any confidential information. It is understood and agreed that neither party solicits any change in the organisation, business practice, service or products of the other party, and that the disclosure of confidential information shall not be construed as evidencing any intent by a party to purchase any products or services of the other party.