



Standard Trading Terms and Conditions Professional Service

1. Definitions and interpretation

1.1. The "Agreement" means these Terms and Conditions and their attendant Proposal relating to the subject Services, including Variations, and any other documentation specifically referenced in the Proposal intended to form part of this Agreement.

1.2. "Project Information" means the deliverables, Project IP, non-Project IP, any information provided to the Client by Levitate Lifting Equipment, and any communications between Levitate Lifting Equipment and the Client.

1.3. "Project IP" means intellectual property developed by Levitate Lifting Equipment, in the delivery of the Services.

1.4. "Proposal" means the proposal, quotation, commercial offer or similar made by Levitate Lifting Equipment to provide the Services covered by this Agreement to the Client.

1.5. The "Services" means all engineering services, design services, drafting and drawing, technical writing, training, inspection and analysis, advice, and offering of opinions provided by Levitate Lifting Equipment to the client under this Agreement.

1.6. Unless the context requires otherwise the singular includes the plural and vice versa. Where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning. The words "including" and "include" mean "including, but not limited to". A reference to a thing includes a part of that thing.

1.7. In the interpretation of this Agreement, no rule of construction applies to the disadvantage of one party on the basis that the party put forward or drafted this Agreement or any provision of it.

2. Levitate Lifting Equipment to perform services

2.1. Levitate Lifting Equipment will perform the Services in accordance with this Agreement. Levitate Lifting Equipment will exercise a reasonable standard of skill, expertise, care, and diligence consistent with industry practice in the delivery of the Services.

3. Scope

3.1. Levitate Lifting Equipment will provide the Services to the Client. The scope of works to be completed by Levitate Lifting Equipment is detailed in the attendant Proposal and as agreed through any applicable variations.

3.2. Levitate Lifting Equipment cannot fully guarantee the success of the Client's project. Levitate Lifting Equipment makes no warranties or guarantees, regarding or relating to the success of the Services.

3.3. Levitate Lifting Equipment makes no warranty or claim, whether express or implied as to the fitness of the Services for any purpose other than as stated in the Proposal or subsequent Variation. The Client is responsible for determining the fitness of the Services for the Client's purposes.

3.4. The Services shall not be used outside Australia.

4. Information

4.1. The Client is responsible for providing accurate information to Levitate Lifting Equipment. Levitate Lifting Equipment accepts no responsibility or liability for any such incorrect information nor any requirement to verify the accuracy of such information unless expressly stated in the Proposal. The Client indemnifies Levitate Lifting Equipment against any liabilities or costs arising from inaccurate or incorrect information provided by the client.

4.2. The deliverables are for the sole use of the Client; Levitate Lifting Equipment undertakes no duty to, nor accepts any responsibility or liability to, any third party who may use or rely upon the Deliverables.

5. Directions

5.1. Levitate Lifting Equipment will follow reasonable directions from the Client, or from the Client's nominated representative or agent. The Client will provide reasonable and timely direction, information, and similar to Levitate Lifting Equipment to enable successful completion of the Services.

A direction may be given or requested either orally or in writing. If Levitate Lifting Equipment requests written confirmation of an oral direction, Levitate Lifting Equipment is not bound to comply with such directions until the Client confirms in writing.

6. Variations

6.1. The Client may request that the scope of works covered by the Services is varied. Levitate Lifting Equipment reserves the right to reject unreasonable changes to the Services. Any variations to the scope of works will be agreed by both parties prior to commencement.

6.2. Changes to the Services (scope of work) will be managed as a variation to the fees either at the rates shown in the Proposal, or as otherwise agreed between Levitate Lifting Equipment and the Client.

7. Hourly rates

- Engineer - \$190
- Drafting - \$135

8. Payment

8.1. The Client must pay Levitate Lifting Equipment in accordance with this Agreement. The fee basis is as stated in the Proposal. Unless expressly stated, no fee cap, fixed fee arrangement, or similar is implied or offered.

8.2. The Client will pay Levitate Lifting Equipment the costs of disbursements reasonably incurred in the provision of the Services at cost plus 15%. Levitate Lifting Equipment may require that payments for large disbursements be paid in full or part prior to the cost being incurred by Levitate Lifting Equipment.

8.3. Levitate Lifting Equipment will issue invoices for works completed to date periodically, at the completion of the services, or otherwise at their discretion, or as specified in the Proposal. Invoices will typically be issued on a fortnightly basis. The failure of Levitate Lifting Equipment to issue an invoice or similar claim does not affect Levitate Lifting Equipment's entitlement to said claim at a later date.

8.4. The Client must pay Levitate Lifting Equipment the amount shown in the invoice within the time frame indicated in the Proposal. If no time frame is indicated in the Proposal, invoices are payable no later than 14 days from the date of issue. Where invoices are unpaid after the due date, Levitate Lifting Equipment reserves the right to stop work on the project until such payments are made and to impose future credit limits on the Client within the project. If the Client fails to make full and final payment for the services, the Client waives any claim on Levitate Lifting Equipment and holds Levitate Lifting Equipment harmless for all Services under this agreement.

8.5. Time and disbursements associated with project travel will be charged to the Client.

8.6. Levitate Lifting Equipment reserves the right to make reasonable increases to the fees if one year has elapsed since this Agreement came into force.

8.7. The Client has no right to set-off a payment due to Levitate Lifting Equipment against any other payment, whomever owed to by whoever.

8.8. If the Client disputes the amount shown or other details of the invoice the Client must inform Levitate Lifting Equipment, no later than 7 days from the date of the invoice. Failure to do so will be deemed as acceptance of the invoice by the client.

8.9. If payment is not made to Levitate Lifting Equipment by the due date Levitate Lifting Equipment shall be entitled (without prejudice to any other right or remedy available to it) to charge interest on the outstanding amount at a rate of 3% per month or part thereof.

8.10. All costs and fees indicated in our Proposal / quotation are exclusive of applicable GST (Goods and Services Tax) and other government taxes and levies whether they are imposed or brought into effect before or after this Agreement comes into force. The Client shall pay applicable GST, taxes, and levies at the same time as the applicable invoice. Unless stated otherwise, money amounts are in Australian currency.



9. Timely delivery

9.1. Levitate Lifting Equipment will make reasonable endeavors to complete the Services in the time frame stated in the Proposal, or as otherwise agreed between the parties. Levitate Lifting Equipment shall have no liability for the late delivery of the Services.

8.2 Levitate Lifting Equipment neither imply, nor offer, that during the duration of the Services they will be working exclusively on the Client's project. The Client accepts that: Levitate Lifting Equipment will balance and prioritize services between different clients and that this may impact on the delivery of the Services, and that such prioritization is at Levitate Lifting Equipment' sole discretion.

10. Assignment

10.1. Neither the Client nor Levitate Lifting Equipment can assign or otherwise transfer the benefit of this Agreement to any other Party without the prior written consent of the other party, which consent shall not be unreasonably refused.

11. Intellectual property

11.1. Upon final payment for the Services, Levitate Lifting Equipment grants the Client a non-exclusive and non-transferable perpetual license to use the Deliverables for their intended purpose.

11.2. Each party retains ownership of intellectual property it had prior to this agreement.

11.3. Levitate Lifting Equipment retains ownership of all project IP created by or for Levitate Lifting Equipment, including Deliverables.

11.4. Levitate Lifting Equipment reserves the right to not supply Project IP, excluding agreed Deliverables, to the Client, or where Levitate Lifting Equipment supplies Project IP to charge additional fees for such supply.

12. Confidentiality

12.1. Levitate Lifting Equipment will take reasonable actions to maintain the confidentiality of the Client's confidential information. Unless stated in the Proposal, the Client has not made Levitate Lifting Equipment aware of any special requirements related to confidential information.

13. Suspension and termination

13.1. The Client may cancel or suspend the Services upon written notice to Levitate Lifting Equipment. Levitate Lifting Equipment may cancel or suspend providing the Services to the Client upon reasonable written notice to the Client.

13.2. Where the Services are suspended and then restarted, additional costs and time incurred by Levitate Lifting Equipment shall be payable by the Client at the respective mark-up and hourly rates in this Agreement.

13.3. Where Levitate Lifting Equipment are unable to complete the Services either for reasons beyond the control of Levitate Lifting Equipment or because the Client terminates or suspends this Agreement, Levitate Lifting Equipment may claim fees for Services provided up to the point of suspension or termination or stopping of the Services. The Client will make payment to Levitate Lifting Equipment, in accordance with this Agreement, for works completed to date at the rates, or Variation rates shown in the proposal.

13.4. Where the Services are terminated or suspended and the Client requests Levitate Lifting Equipment provide the Deliverables to the Client, Levitate Lifting Equipment accepts no responsibility or liability for the accuracy, validity, completeness of the deliverables, nor for any consequence of the use of the deliverables.

14. Indemnity and liability

14.1. The Client will defend, indemnify, and hold Levitate Lifting Equipment harmless from all claims, damages, losses, and expenses (including reasonable legal fees) arising out of the provision of the Services including claims related to Client supplied drawings, measurement, data, or any other information provided by the Client. The Client shall not be liable under this provision for claims arising out of the sole negligence or willful misconduct of Levitate Lifting Equipment.

14.2. Levitate Lifting Equipment' liability for a claim of any kind arising out of the Services shall in no case exceed the fees paid to Levitate Lifting Equipment by the Client under this Agreement. In no event shall Levitate Lifting Equipment be liable for any special, indirect, incidental, or consequential damages, including loss of profits or business interruption, however caused. Levitate Lifting Equipment' initial remedy shall be repeating of the Services.

14.3. For the duration of this Agreement Levitate Lifting Equipment will maintain the following insurances, details of which are available on request:

- a) Professional indemnity insurance: \$2,000,000 aggregate.
- b) Public & Products Liability Insurance: \$20,000,000

15. Survival of termination

Clauses 1, 3.2, 3.3, 3.4, 4, 7, 8, 9, 10, 11, 12.3, 12.4, 13, 15 and 16.2 survive the termination of this Agreement.

16. Agreement

16.1. These terms and conditions shall not be waived or modified unless agreed in writing between the Client and Levitate Lifting Equipment. Changes to this agreement by Client purchase order or Client's standard terms and conditions of purchase are rejected and objected to unless such agreement is explicitly stated in writing. Commencement of the Services shall not constitute such agreement. Clauses of this Agreement not changed by any other agreement between Levitate Lifting Equipment and the Client replacing this Agreement, whether before or after the date of this Agreement, shall survive and any entire agreement clause shall not apply to such clauses.

16.2. This Agreement contains the entire understanding between Levitate Lifting Equipment and the Client and supersedes all prior communication between these parties. The Client acknowledges that, unless expressly stated in this Agreement, the Client has not relied on any representation, warranty or undertaking of any kind made by or on behalf of Levitate Lifting Equipment in relation to the subject matter of this agreement.

16.3. This Agreement will be interpreted under and governed by the laws of the State of Victoria, Australia and the parties submit to the exclusive jurisdiction of the courts of Victoria and any courts that may hear appeals from those courts in respect of any proceedings in connection with this Agreement.

16.4. The failure of a party to this Agreement to exercise any power or right under this Agreement does not form a waiver of that power or right in that or any subsequent instances.

16.5. Nothing contained in this agreement shall create a contractual relationship with or a cause of action in favor of a third party against Levitate Lifting Equipment. The Services are performed solely for the Client's benefit, and no party or entity shall have a claim against Levitate Lifting Equipment because of this Agreement or the performance or non-performance of the Services.

16.6. Any provision of this agreement found to be invalid or unenforceable is removed from the Agreement to the minimum extent possible; all other provisions remain.

16.7. The Proposal remains valid for 30 days from its original date of issue, unless stated otherwise in the Proposal.

17. Responsibilities of the Client

17.1. Where Levitate Lifting Equipment personnel are required to enter workplaces, the Client shall ensure that the workplaces are safe in accordance with the requirements of both the local jurisdiction and at least equivalent to the State of Victoria.

17.2. The Client is responsible for ensuring that Deliverables and Project Information is interpreted and implemented by competent persons, and for seeking clarification where required.

17.3. Unless stated in the Proposal, all third-party examination and testing is the responsibility of the Client.

17.4. The Client will do all acts and things reasonably required to enable Levitate Lifting Equipment to successfully complete the Services.