

- 1. DEFINITIONS**
- 1.1. The Supplier is ROSS GROUP PTY LTD (ACN 005 885 316) of 631 High Street, Mt Waverley, Vic. 3149.
- 1.2. The Customer is the party placing the order or any person acting on behalf of and with the authority of the Customer that the Order is provided for.
- 1.3. The Guarantor is the person(s), or entity, who agrees to be liable for the debts of the Customer.
- 1.4. The Order shall be defined as any request for the provision of Services by the Customer with the Supplier which has been accepted by the Supplier.
- 1.5. The Services are accounting and/or consultancy services provided Supplier, including any advice or recommendations.
- 1.6. The Price is the amount invoiced for Services provided.
- 1.7. Indirect, Special or Consequential loss or damage includes i) any loss of income profit or business; ii) any loss of good will or reputation; iii) any loss of value of intellectual property.
- 1.8. Invoices include invoices for the Services provided.
- 2. GENERAL**
- 2.1. These Terms and Conditions together with the Supplier's written or verbal quotation, the Supplier's Credit Application Form, the Suppliers Engagement Letter, the Electronic Lodgement Declaration and Tax Agent's Certificate forms this Agreement.
- 2.2. Any Order requested by the Customer is deemed to be an Order incorporating these Terms and Conditions notwithstanding any inconsistencies which may be introduced in the Customer Order or acceptance unless expressly agreed to by the Supplier in writing. In the event that an inconsistency exists and/or arises it is acknowledged between the parties that these Terms and Conditions will prevail.
- 2.3. No subsequent correspondence or document or discussion shall modify or otherwise vary these Terms and Conditions unless such variation is in writing and signed by the Supplier.
- 2.4. The Terms and Conditions are binding on the Customer, his heirs, assignees, executors, trustees and where applicable, any liquidator, receiver or administrator.
- 2.5. In these Terms and Conditions, the singular shall include the plural, the masculine shall include feminine and neuter and words importing persons shall apply to corporations.
- 2.6. Where more than one Customer completes this Agreement each shall be liable jointly and severally.
- 2.7. 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 and the offending provision shall be deemed as severed from these Terms and Conditions.
- 2.8. The Supplier may license or sub-contract all or any part of its rights and obligations without the Customer's consent but the Supplier acknowledges that it remains at all times liable to the Customer.
- 2.9. The failure by the Supplier to enforce any provision of these Terms and Conditions shall not be treated as a waiver of that provision, nor shall it affect the Supplier's right to subsequently enforce that provision.
- 2.10. The Customer acknowledges that the Supplier may detail these Terms and Conditions on its website. In this event, the Terms and Conditions on the Supplier's website shall apply to any future dealings as between the parties and the Customer is deemed to have notice of any such Terms and Conditions and/or amendments.
- 2.11. These Terms and Conditions must be read in conjunction with the Engagement Letter.
- 3. PLACEMENT OF ORDERS**
- 3.1. Orders placed by the Customer with the Supplier will be considered valid when placing the Order verbally and/or in writing.
- 3.2. Any written Quotation given by the Supplier shall expire thirty (30) days after the date of the written quotation.
- 3.3. All prices are based on taxes and statutory charges current at the time of the Quotation. Should these vary during the period from the date of the Quotation to the date of the invoice, the difference will become the responsibility of the Customer and the Customer will be invoiced for the extra charge by the Supplier.
- 4. PRICE**
- 4.1. At the Supplier's sole discretion the Price shall be either:
- 4.1.1. As detailed on invoices provided by the Supplier to the Customer in respect of the Services provided; or
- 4.1.2. The Supplier's quoted Price as for the Order (subject to clause 5.2).
- 4.2. The Supplier reserves the right to change the Price in the event of a variation to the Supplier's Order, and notice will be provided in writing by the Supplier within a reasonable time.
- 5. PROVISION OF SERVICES**
- 5.1. The Supplier reserves their right to:
- 5.1.1. Decline requests for any Services requested by the Customer.
- 5.1.2. Cancel or postpone appointments at their discretion.
- 5.2. If the Customer fails to attend any appointment without prior notice, the Customer shall, at the discretion of the Supplier, be liable for a fee at the Suppliers prevailing rate.
- 5.3. Unless specified by the Supplier to the contrary in the Order, the Supplier does not warrant that it will be capable of providing the Services at specific times requested by the Customer during the term of this Agreement.
- 5.4. Subject to otherwise complying with its obligations under this Agreement, the Supplier shall exercise its independent discretion as to its most appropriate and effective manner of providing the Services and of satisfying the Customer's expectations of those Services.
- 5.5. In the discharge of its duties, the Supplier shall comply with all reasonable directions of the Customer as to the nature and scope of the Services provided.
- 5.6. Nothing in the above clause shall effect the Supplier's right to exercise its own judgment and to utilise its skills as it considers most appropriate in order to achieve compliance with the said resolutions, regulations and directions or otherwise with its obligations under this Agreement.
- 5.7. The Supplier may agree to provide, on request from the Customer, additional Services not included or specifically excluded in the Quotation/Order. In this event, the Supplier shall be entitled to make an additional charge. Additional Services includes, but is not limited to, alterations, amendments, and any additional visits by the Supplier after provision of the Services at the request of the Customer.
- 5.8. The Services provided by the Supplier may also cover accounting work and tax returns carried out for other entities at the request of the Customer.
- 5.9. The Supplier shall exercise a lien over the Customer's records in the event that the Customer is in default of payment and shall further be entitled to confidentially dispose of the Customer's records if the account has not been paid within seven (7) years from the date of the financial year to which the records relate.
- 6. PAYMENT**
- 6.1. The Customer must make payment of the Price to the Supplier within seven (7) days from the date of the invoice.
- 6.2. The Supplier reserves the right to interim invoice the Customer for the Services provided.
- 7. GOODS AND SERVICES TAX**
- 7.1. GST refers to Goods and Services tax under the *Goods and Services Act 1999* ("GST Act") and terms used herein have the meanings contained within the GST Act.
- 7.2. It is agreed between the Customer and the Supplier that the consideration for the Supplier expressed in this Agreement is exclusive of the Supplier's liability of GST.
- 7.3. The Customer will pay to the Supplier, in addition to the total purchase Price, the amount payable by the Supplier of GST on the taxable supply made by the Supplier under this Agreement.
- 7.4. The Supplier shall deliver to the Customer a Tax Invoice for the supply in a form which complies with the *GST Act* and Regulations.
- 8. DISHONOUR OF CHEQUE**
- 8.1. If any cheque issued by the Customer or by any third party in payment of the Price is dishonoured, the Customer may be liable for a dishonoured cheque fee of \$40.00.
- 8.2. The Supplier may refuse to provide any further Services until satisfactory payment is received in full, including bank fees and charges.
- 8.3. The Supplier is entitled to treat the dishonour of the Customer's cheque as a repudiation of this Agreement and to elect between terminating this Agreement or affirming this Agreement, and in each case claiming and recovering compensation for loss or damage suffered from the Customer.
- 9. DEFAULT**
- 9.1. Invoices issued by the Supplier shall be due and payable within thirty (30) days from the end of month on the invoices ("Default Date"). Without prejudice to any other rights of the Supplier, the Customer may be charged administration fees of \$55.00 monthly on any payment in arrears.
- 9.2. If the Supplier does not receive the Outstanding Balance for the Price on or before the Default Date, the Supplier may, without prejudice to any other remedy it may have, forward the Customer's outstanding account to a debt collection agency for further action. The Customer acknowledges and agrees that:
- 9.2.1. After the Default Date, the Outstanding Balance shall include, but not limited to, all applicable fees and charges under this Agreement;
- 9.2.2. In the event of the Customer being in default of his obligation to pay and the overdue account is then referred to a debt collection agency, and/or law firm for collection the Customer shall be liable for the recovery costs incurred and if the agency charges commission on a contingency basis the Customer shall be liable to pay as a liquidated debt, the commission payable by the Supplier to the agency, fixed at the rate charged by the agency from time to time as if the agency has achieved one hundred per cent recovery and the following formula shall apply.
- Commission = $\frac{\text{Original Debt}}{100 - \text{Commission \% charged}}$ by the agency (including GST)
- 9.2.3. In the event where the agency is Prushka Fast Debt Recovery the applicable commission rate for the amount unpaid is as detailed on www.prushka.com.au
- 9.2.4. In the event where the Supplier or the Supplier's agency refers the overdue account to a lawyer the Customer shall also pay as a liquidated debt the charges reasonably made or claimed by the lawyer on the indemnity basis.
- 10. RISK AND LIABILITY**
- 10.1. The Customer will ensure when placing Orders that there is sufficient information to enable the Supplier to execute the Order.
- 10.2. The Customer is responsible for ensuring that the Supplier is made aware of any special requirements pertaining to the Order and that the Supplier relies upon the integrity of the information supplied to it.
- 10.3. The Supplier takes no responsibility for representations made in relation to the Services or any delay in the provision of the Services made by a third party or third party provider.
- 10.4. The Customer acknowledges that the Supplier shall not be liable for and releases the Supplier from any loss incurred as a result of delay, or failure to provide the Services or to observe any of these conditions due to an event of force majeure, being any cause or circumstance beyond the Supplier's reasonable control.
- 10.5. The Customer acknowledges that the Supplier shall not be liable for penalties and/or damages arising from non-disclosure by the Customer of all relevant information.
- 10.6. The Supplier does not represent that it will provide any Services unless it is included in the Quote.
- 11. WARRANTY**
- 11.1. The Supplier warrants that the rights and remedies to the Customer in this Agreement for warranty against defects are in addition to other rights and remedies of the Customer under any applicable Law in relation to the goods and services to which the warranty relates.
- Warranty for Services**
- 11.2. The Supplier warrants that if any defect in any accounting work provided by the Supplier becomes apparent and is reported to the Supplier within ninety (90) days of the provision of the Services (time being of the essence) then the Supplier will (at the Supplier's sole discretion) remedy the accounting work.
- 11.3. In respect of all claims the Supplier shall not be liable to compensate the Customer for any delay in remedying the defective Services or in properly assessing the Customer's claim. The Supplier will use its best endeavours to assist the Customer with its claim.
- 11.4. The warranty is not applicable to Services where the defect is the result of inaccurate, incorrect, insufficient, and/or false information provided by the Customer.
- 11.5. If the Customer is in default of any payment to the Supplier after a request in writing has been made, all warranties shall cease and the Supplier shall thereafter in no circumstances be liable under the terms of the warranty.
- Claims made under Warranty**
- 11.6. Subject to clause 11.2 of this Agreement claims for warranty should be made in one of the following ways:
- 11.6.1. The Customer must send the claim in writing together with proof of purchase to the Supplier's business address stated in clause 1.1 of this Agreement;
- 11.6.2. The Customer must email the claim together with the proof of purchase to the Supplier on info@therossgroup.com.au
- 11.6.3. The Customer must contact the Supplier on the Supplier's business number (03) 9887 8751.
- 12. TERMINATION AND CANCELLATION**
- Cancellation by Supplier**
- 12.1. The Supplier may cancel any Order to which these Terms and Conditions apply at any time before the Services are provided by giving written notice to the Customer. On giving such notice the Supplier shall repay to the Customer any sums paid in respect of the Price. The Supplier shall not be liable for any loss or damage or consequential loss or damage whatever arising from such cancellation.
- 12.2. Without prejudice to the Supplier's other remedies at law, the Supplier shall be entitled to cancel all or any part of any Order of the Customer which remains unfulfilled and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable in the event that:
- 12.2.1. Any money payable to the Supplier becomes overdue; or
- 12.2.2. The Customer becomes insolvent, 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
- 12.2.3. A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
- Cancellation by Customer**
- 12.3. Any Order cannot be cancelled by the Customer unless expressly agreed to by the Supplier in writing.
- 12.4. In the event that the Customer cancels provision of Services the Customer shall be liable for any loss incurred by the Supplier (including, but not limited to, any loss of profits) up to the time of cancellation.
- 12.5. If the Customer places an Order with the Supplier and the Supplier places an Order with a third party provider to meet the Customer's request, the Customer shall be liable for the Price of the Services ordered if the Customer cancels the Order and the Services have already been provided.
- 13. SET-OFF**
- 13.1. The Customer shall have no right of set-off in any suit, claim or proceeding brought by the Supplier against the Customer for default in payment.
- 13.2. The Customer acknowledges that the Supplier can produce this claim in bar of any proceeding for set-off.
- 14. INSURANCE**
- 14.1. The Customer is responsible to effect whatever insurance cover he requires at his own expense.
- 15. AGREED USE**
- 15.1. The Customer acknowledges that the Customer may forfeit any rights if any, he may have against the Supplier if the accounting figures are applied for any other use and/or to other entities to which the accounting figures are not intended and/or prepared for and/or not in accordance with any applicable instructions.
- 16. JURISDICTION**
- 16.1. This Agreement is deemed to be made in the Victoria and all disputes hereunder shall be determined by the appropriate courts of Victoria.
- 17. PRIVACY ACT 1988**
- 17.1. The Customer and/or the Guarantor/s agree for the Supplier to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and Guarantor/s in relation to credit provided by the Supplier.
- 17.2. The Customer and/or the Guarantor/s agree that the Supplier may exchange information about the Customer and the Guarantor/s with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency to assess an application by Customer; to notify other credit providers of a default by the Customer, to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers or to assess the credit worthiness of Customer and/or Guarantor/s.
- 17.3. The Customer consents to the Supplier being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 18. ENTIRE AGREEMENT**
- 18.1. The Terms and Conditions set out in this Agreement constitute the whole Agreement made between the Customer and the Supplier.
- 18.2. This Agreement can only be amended in writing signed by each of the parties.
- 18.3. All prior discussions and negotiations are merged within this document and the Supplier expressly waives all prior representations made by him or on his behalf that are in conflict with any clauses in this document in any way.
- 18.4. Nothing in these Terms and Conditions is intended to have the effect of contravening any applicable provisions of the *Competition and Consumer Act 2010* or the *Fair Trading Acts* in each of the States and Territories of Australia