

Conditions of Contract for Consultancy Services



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prepared in association with The Auckland Region Contract Group

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THIS DOCUMENT HAS BEEN ENDORSED BY:

The Auckland Region Contract Group

Comprising:

Auckland City Council ; Auckland Regional Council; Franklin District Council; Manukau City Council; North Shore City Council; Papakura District Council; Rodney District Council and Waitakere City Council

CONDITIONS OF CONTRACT FOR CONSULTANCY SERVICES

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FOREWORD

These Conditions of Contract for Consultancy Services (second edition, 2005) are the result of five years' use of the first edition CCCS developed jointly by ACENZ, IPENZ, ALGENZ (now INGENIUM) and Transit NZ.

During 2003 and the early part of 2004 a joint working party comprising representatives of the Auckland Region Contract Group (ARCG) and ACENZ sought to clarify opinions based on usage of various contract documents from the point of view of both providers and users of consulting services. This work resulted in a number of clarifications and improvements in the original document that better reflected current legislation and common usage. A modified document was published by ARCG as the ARCCCS (Ver 4, 28 July 2004, ISBN 0-9583605-8-8)

The other parties to the original document were approached for agreement to adopt the modifications made by the ARCG/ACENZ working party for general usage.

This document is the same as the ARCCCS, but published under the CCCS logo as a second edition.

These Conditions of Contract for Consultancy Services (second edition) are recommended for general use for contracts for the purpose of procuring and providing professional consulting services. They have been developed to apply to a wide range of consulting services and for most types of projects. This document is for use where the Services are being procured for the purposes of a business.

The General Conditions of Contract are intended to be amplified or adapted as required to suit particular engagements by use of the Special Conditions. A *pro forma* is included with the document. Similarly, a formal Agreement is also included.

Users are invited to copy this document in order to bind it into a contract, on the condition that any variations should be clearly identified to all parties.

COPYRIGHT

Copyright of this version is held jointly by ACENZ, INGENIUM, IPENZ and Transit NZ, and endorsed for use by those organisations listed on page 2. Whilst use of this document is encouraged as best practice in New Zealand, the General Conditions should not be modified or amended and passed off as this document.

ACCESS

The document is free to download from www.acenz.org.nz/pubframe.htm as a pdf. The *pro forma* agreement can be copied in an editable version for completing Special Conditions, names of parties etc. Such customisation of the *pro forma* is acceptable.

FORM OF AGREEMENT FOR ENGAGEMENT OF CONSULTANT

This **AGREEMENT** is made the _____ day of _____ (year) _____

BETWEEN _____

of _____

("the Client")

AND _____

of _____

("the Consultant")

THE Client engages the Consultant to provide the professional services set out in Appendix A and agrees to pay the Consultant as described in Appendix B and to undertake its other obligations set out in this Agreement.

THE Consultant agrees to perform the Services on the terms of this Agreement.

The following documents shall form the Agreement in order of precedence:

- Form of Agreement for Engagement of Consultant
- The Special Conditions – Part A (Specific Conditions)
- The Special Conditions – Part B (Other Special Conditions)
- Additional documents specified in the Special Conditions
- General Conditions of Contract for Consulting Services
- Appendix A: Scope and Purpose of Services
- Appendix B: Fees, Expenses and Payment
- Appendix C: Client's Representative
- Appendix D: Consultant's Key Personnel
- Appendix E: Subconsultants
- Appendix F: Other Consultants, Other Consultant's insurance, personnel, equipment, facilities and information supplied by the Client
- Appendix G: Client's Hazard Identification and Notification

SIGNED for the Client by:

SIGNED for the Consultant by:

Signature

Signature

Name

Name

Position

Position

In the presence of:

Signature of Witness _____

In the presence of:

Signature of Witness _____

Name of Witness _____

Name of Witness _____

(NB: This document should be signed by an authorised person. Signatures should be witnessed.)



GENERAL CONDITIONS OF CONTRACT FOR CONSULTANCY SERVICES

1. Definitions and Interpretation

1.1 Definitions

Agreement

The Agreement is:

the contract between the Consultant and the Client. The documents forming the contract are listed in the Form of Agreement for Engagement of Consultant.

Client

The Client is:

the Party named as the Client in the Agreement.

Client's Representative

The Client's Representative is:

the person named as the Client's Representative in Appendix C.

Confidential Information

Confidential Information means:

any professional advice or other information of a sensitive nature, whether or not specifically identified as confidential; and

any information about the Parties and their clients gained during the currency of this Agreement that is not already in the public domain.

Consultant

The Consultant is:

the Party named as the Consultant in the Agreement.

Consultant's Representative

The Consultant's Representative is:

the person named as the Consultant's Representative in Appendix D.

Contractor

Contractor means:

a person or entity that the Client engages to carry out the whole or part of the Works and includes any subcontractor engaged by a Contractor.

Intellectual Property

New Intellectual Property means:

all intellectual property rights, including, but not limited to, copyright, in all concepts, designs, drawings, specifications, plans, studies, reports, and documentation collated, prepared or created by the Consultant (or persons on behalf of the Consultant) in carrying out the Services but not including pre-existing Intellectual Property.

Pre-existing Intellectual Property means:

all intellectual property rights owned by the Consultant or any third party and provided or used by the Consultant in carrying out the Services.

Client's Intellectual Property means:

all intellectual property rights owned by the Client and provided to the Consultant for the purposes of carrying out the Services or the Works.

Key Personnel

Key Personnel are:

the persons named as the Consultant's and/or Subconsultant's Key Personnel in Appendix D, including the Consultant's Representative.

Other Consultant

Other Consultant means:

a person or entity listed in Appendix F (other than the Consultant) the Client engages to carry out other consulting or advisory services related to the Services. It does not include a Contractor.

Party

Party means:

the Client or Consultant; "Parties" means the Client and the Consultant and "Third Party" means any other person or entity as the context requires, including a Contractor and Other Consultants, but excluding Subconsultants.

Services

The Services are:

the services listed in Appendix A.

Subconsultant

Subconsultant means:

a person or entity, as listed in Appendix E, engaged by the Consultant to assist in the provision of the Services, together with any Subconsultants appointed under clause 2.4.

Variation

Variation means:

a change in scope, time of supply or scale of the Services.

Working Day

A Working Day is:

a calendar day other than a Saturday, Sunday, statutory or public holiday.

Works

Works means:

the physical and other works (if any) relating to the Services, to be carried out by a Contractor or by the Client, including goods and equipment to be supplied to the Client.

1.2 Interpretation

In these General Conditions of Contract for Consultancy Services, the singular shall include the plural, the masculine shall include the feminine, and vice versa where the context requires.

A reference to a Party includes their respective successors, executors and administrators.

2. Obligations of the Consultant

2.1 The Services

The Consultant must:

- provide the Services set out in Appendix A; and
- perform the Services in accordance with the timetable set out in Appendix A; and
- advise the Client promptly if additional briefing or information is required from the Client to avoid any delay to the provision of Services or Works; and
- act for the Client as set out or implied in Appendix A; and
- notify the Client promptly in writing if the Consultant thinks a Client direction or any other circumstance is a Variation. The notice shall contain details of the claimed Variation, including likely or estimated time, cost and fee impacts and make recommendations on how to proceed.

2.2 Duty of Care

In providing the Services, the Consultant must use reasonable skill, care and diligence.

2.3 Duty of Independent Judgement

Where the Services require the Consultant to certify, decide or use discretion under a contract between the Client and a Third Party, the Consultant must act independently, and with professional skill and judgement, according to the terms of the contract between the Client and the Third Party.

2.4 Subconsultants

Subject to clause 12.8, the Consultant shall appoint, direct and pay any Subconsultant. The Consultant is responsible to the Client for the services of any Subconsultant.

The sub-contracting of any of the Services shall not relieve the Consultant from any liability or obligation under the Agreement.

If the Client decides for good reason that a Subconsultant is unsuitable, the Client can require the Consultant not to have that Subconsultant perform the Services. The Consultant shall then replace that Subconsultant.

Subconsultants may be appointed at any time subject to approval by the Client.

2.5 Other Consultants

The Consultant must direct and/or co-ordinate the work of Other Consultants where required by the Services. The Consultant shall not be responsible for the services and/or work of Other Consultants.

2.6 Ordering Client Materials or Services

The Consultant must obtain the Client's approval before purchasing or ordering any goods or services, materials or equipment on behalf of the Client.

2.7 Client Concerns

The Consultant must remedy any concerns notified by the Client under clause 3.3 to the satisfaction of the Client, or agree with the Client a plan for remedying any such concerns, before proceeding to the next stage of the Services.

2.8 Conflicts of Interest

The Consultant must try to ensure that conflicts of interest do not arise, and notify the Client immediately in writing if it is thought that a conflict of interest may arise or has arisen.

Where a conflict of interest is identified and the Client has given informed consent, the Consultant must establish structures and practices which:

- ensure that the conflict is avoided in practice; or
- if avoidance is not practicable, ensure that the effects of conflict are minimised.

In either situation, the Consultant must inform the Client of the structures and practices that have been established.

2.9 Instructions to Contractors

The Consultant may instruct the Contractor and/or vary the Works to the extent authorised in Appendix A. The Consultant must not instruct a Contractor to vary the Works in a material way beyond this authority, unless an emergency occurs. In emergency circumstances, the Consultant may vary the Works and shall immediately notify the Client about the changes.

2.10 Health and Safety

The Consultant must have in place a health and safety management plan that is appropriate for the Services and comply with any health and safety plan operated by the Party or Third Party in control of the site.

The Consultant is responsible for health and safety issues relating to the provision of the Services including, but not limited to:

- complying with the Consultant's obligations under the Health and Safety in Employment Act 1992 (HSEA); and
- where the Services expressly include management duties in relation to the Works, assisting the Client in complying with the Client's obligations, in relation to the Contractor, under the HSEA including raising health and safety issues with the Contractor and the party in control of the workplace.

Should the Client disregard the Consultant's proper written recommendation on an HSEA matter, the Consultant is deemed to have met the Consultant's obligations in this clause in respect of that matter.

2.11 Public Statements

The Consultant must not make any public or media statements to anyone about this Agreement, the Services or the Works without the Client's written approval.

2.12 Delay

If at any time the Consultant's performance falls behind the timetable due to matters which are not outside the Consultant's control, then the Consultant shall take all practicable steps to remedy such delay.

3. Obligations of the Client

3.1 Payment

The Client must pay the Consultant for the Services according to the terms and conditions set out in Appendix B and elsewhere in this Agreement.

3.2 Provision of Information to the Consultant

The Client must:

- provide, free of charge, the information listed in Appendix F; and
- declare any ownership or proprietary rights any other person may have to this information and pay for any royalties or fees; and
- in response to the Consultant's request, provide additional relevant information, within a timeframe that does not materially delay the Services or the Works; and
- accept responsibility for the accuracy of information provided. The Consultant is expected to review all the information provided to ensure that it contains no manifest errors or omissions. No Variation will exist if the information contains manifest errors or omissions that the Consultant should reasonably have been expected to find.

3.3 Client Decisions

The Client must respond to any written request from the Consultant for a decision within a reasonable time, to avoid or minimise any delay to the provision of the Services or Works.

If the Services are to be provided in stages, then the Client must approve the current stage before the Consultant may proceed with the next stage. If the Client has any concerns with the current stage, the Client shall notify the Consultant of these in writing prior to giving approval for the Consultant to proceed to the next stage.

3.4 Assistance to the Consultant

The Client must co-operate with the Consultant and not obstruct the proper performance of the Services.

The Client must, as soon as practicable:

- provide, free of charge, the personnel, equipment and facilities described in Appendix F; and
- allow the Consultant to visit the site and other locations associated with the Services; and
- obtain and pay for all consents, certificates, approvals, authorities, licences and permits that are needed to lawfully carry out the Works, except where they are to be obtained by the Consultant as set out in Appendix A.

3.5 Other Consultants

Where the Consultant has to direct and/or co-ordinate the work of Other Consultants, the Client must include in the conditions of contract with the Other Consultants a requirement that the Other Consultants have the required insurance and that they will work under the direction of, and co-operate

with, the Consultant. The amount of insurance required by each Other Consultant shall be the amount specified in Appendix F. If no sum is specified, it shall be not less than that required of the Consultant under Section 6 and the Special Conditions, unless the Client and Consultant specifically agree otherwise.

The Client shall arrange and must pay for the services provided by Other Consultants.

The Client shall be responsible for the services or work provided by Other Consultants.

Where the Client wishes to appoint an Other Consultant not included in Appendix F, the Client shall, where relevant, confer with the Consultant prior to the appointment of an Other Consultant regarding the scope of work, conditions of contract and selection of the Other Consultant.

3.6 Instructions to Others

If, under this Agreement, the Consultant has to direct and/or co-ordinate work carried out by Other Consultants and/or Third Parties directly contracted to the Client, the Client shall give all instructions to such Other Consultants and/or Third Parties through the Consultant.

3.7 Matters Affecting the Services

As soon as the Client becomes aware of anything that will materially affect the scope or timing of the Services, the Client must inform the Consultant in writing.

3.8 Health & Safety

The Client shall provide to the Consultant a list of known identified hazards relevant to the Services and as set out in Appendix G, and any health and safety management plan operated by the Client that is relevant to the Services.

On sites where there is multiple provision of services and works, the Client shall establish a clear hierarchy of responsibilities related to health and safety management between all parties.

The Consultant does not assume any obligation of the Client under the Health & Safety in Employment Act 1992, unless that obligation is part of the Services.

3.9 Approvals

Where approval of the Client is sought under this Agreement, it shall not be unreasonably withheld or delayed.

Where the Client gives its consent, review or approval in respect of any matter arising in relation to the Services, such consent, review or approval shall not reduce the liability of the Consultant in respect of the matter approved except:-

- where the matter being approved reasonably carries some risk; and
- the risk has been identified to the Client in writing; and
- the Client has accepted that risk in writing.

4. Personnel

4.1 Client's Representative

The Client's Representative has authority to give the Consultant instructions on the Client's behalf; and may monitor, review, approve, accept, reject or confirm any part, or all, of the Services.

If the Client changes the Client's Representative, the Client shall first inform the Consultant in writing.

4.2 Consultant's Representative

The Consultant's Representative has authority to receive instructions on behalf of the Consultant and for co-ordinating and providing the Services as agreed on a day-to-day basis, and must communicate with the Client's Representative when required.

4.3 Key Personnel

The written approval of the Client shall be obtained by the Consultant before Key Personnel can be replaced or substituted.

If the Client decides for good reason that one of the Key Personnel is unsuitable:

- the Client can require the Consultant not to have that person perform the Services; and
- the Consultant shall then replace that person with someone acceptable to the Client; and
- the Client shall not bear any cost or liability arising from the replacement of that person.

5. Payment

5.1 Time for Payment

The Client must pay the Consultant all amounts claimed and due under this Agreement within the time set out in the Special Conditions.

5.2 Disputed and Unpaid Invoices

If the Client disputes an invoice, or part of an invoice, the Client must promptly give the reasons for withholding the disputed amount and pay any undisputed amount.

Where an invoice, or part of an invoice, is not disputed and is not paid as required in clause 5.1, the Client must pay interest on the unpaid amount from due date to the date of actual payment at the Consultant's non-penalty overdraft interest rate.

6. Liability and Insurance

6.1 Consultant's Liability

Where the Consultant breaches this Agreement, the Consultant is liable to the Client for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach.

6.2 Limitation of Liability

The maximum amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, is as specified in the Special Conditions.

6.3 Contributory Conduct

If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable to the proportional extent of its own contribution.

6.4 Duration of Liability

Neither party shall be liable for any loss or damage occurring after the period stated in the Special Conditions from the date on which the Services were completed.

6.5 Insurance

The Consultant shall take out and maintain for the duration of the Services:

- professional indemnity insurance for the amount of the liability under clause 6.2; and
- public liability insurance cover as set out in the Special Conditions; and
- provision for reasonable defence costs.

The Consultant shall use all reasonable endeavours to maintain professional indemnity insurance for the duration of liability stated under clause 6.4. If at any time the Consultant is unable to obtain or maintain professional indemnity cover as required by the Agreement, or if any material change to the terms and conditions of the cover occurs, the Consultant shall, as soon as practicable, notify the Client in writing.

6.6 Proof of Insurance

If the Client asks, the Consultant must produce certificates evidencing the currency of such cover and proving that professional indemnity and public liability insurance policies meet the requirements in clause 6.5.

7. Variations

7.1 Variations to the Services

The Client may order a Variation to the Services in writing, or may ask the Consultant to propose a Variation to the Services.

The Client and the Consultant shall agree, in writing, the cost and time of supply for the Variation.

Where practicable, the value and time of supply of the Variation shall be agreed between the Parties prior to the variation works commencing.

7.2 Dispute as to Variations

As soon as practicable after receiving any notice under clause 2.1 the Client shall promptly notify the Consultant in writing whether or not it considers the direction or other circumstance to be a Variation.

The Client and Consultant shall attempt to resolve whether the Client direction or other circumstance is a Variation and, if so, a cost and time of supply for the Variation.

7.3 Failure to Agree

In the event that the Parties are unable to reach agreement, the matter shall be treated as a dispute and resolved in accordance with clause 10.

8. Confidentiality

8.1 Client Obligations

The Client must:

- identify Confidential Information at the time it is supplied to the Consultant; and
- keep all Confidential Information relating to the Consultant confidential and only use it for the purposes it was made available; and
- not disclose Confidential Information relating to the Consultant without the Consultant's written approval except as required by law.

8.2 Consultant Obligations

The Consultant must:

- identify Confidential Information at the time it is supplied to the Client; and
- keep all Confidential Information relating to the Client or the Client's project confidential and only use it for the purposes it was made available; and
- not disclose any Confidential Information relating to the Client or the Client's project without the Client's written approval, unless it is necessary for the purposes of the Services to disclose it to any appropriate third party or as required by law.

8.3 Exclusions

Information shall cease to be Confidential Information when the information is publicly available through no unauthorised act of either Party.

If either Party is legally bound to disclose Confidential Information, that Party must first advise the other Party what information will be provided and limit the information to that required by the law.

8.4 Return of Confidential Information

Upon request, the Consultant must promptly return to the Client or destroy all Confidential Information which is in the Consultant's possession or control.

9. Copyright of Documents

- 9.1** Subject to clause 9.6 all new Intellectual Property held in any medium, whether electronic or otherwise, shall be jointly owned by the Client and the Consultant. The Client and the Consultant hereby grant to the other an unrestricted royalty-free license in perpetuity to copy or use such New Intellectual Property.
- 9.2** All Pre-existing Intellectual Property shall remain the property of the original owner. The Client's Intellectual Property shall remain the property of the Client. The Consultant hereby grants to the Client, or agrees to procure the grant to the Client of, an unrestricted royalty-free licence to use and copy Pre-existing Intellectual Property to the extent reasonably required to enable the Client to make use of the Services or use, adapt, update or amend the Works. The Client hereby grants to the Consultant, an unrestricted royalty-free licence to use and copy the Client's Intellectual Property provided to the Consultant to the extent reasonably required to enable the Consultant to provide the Services.
- 9.3** The Consultant confirms (save in respect of any of the Client's Intellectual Property and subject to clause 9.4) that the New Intellectual Property, the Pre-existing Intellectual Property, the Services and the Works will not infringe any intellectual property or other rights of any third party.
- 9.4** The Consultant does not warrant the suitability of the New Intellectual Property for any purpose other than the Services or any other use stated in the Agreement.
- 9.5** The Client owns, or has the right to use, Confidential Information disclosed or provided to the Consultant under this Agreement.
- 9.6** The ownership of data and factual information collected by the Consultant and paid for by the Client shall, after payment by the Client, lie with the Client.

10. Disputes

- 10.1** If there is a dispute between the Parties in relation to this Agreement, or any matter arising from it, the Parties will in good faith in the first instance use their best endeavours to resolve the dispute themselves.
- 10.2** If the dispute cannot be resolved by the Parties themselves within a reasonable time, then they must explore whether the dispute can be resolved by use of mediation or other alternative resolution technique.
- 10.3** If the dispute is not settled within a reasonable time, then either Party may refer the dispute to arbitration by a sole arbitrator under the provisions of the Arbitration Act 1996 and the substantive law of New Zealand. The arbitrator will be appointed by agreement between the Parties within 15 working days of written notice of referral by the referring party to the other or, failing agreement, by the President of the New Zealand Law Society or its successor body, or any nominee of the President. In either case, the arbitrator must not be a person who has participated in any informal dispute resolution procedure in respect of the dispute.
- 10.4** No dispute arising gives either Party the right to suspend their obligations under the terms of this Agreement.

11. Termination

11.1 Termination of the Agreement

The Client may terminate this Agreement at any time, or under the provisions of clause 12.4, by written notice to the Consultant. As soon as this notice is received, the Consultant shall stop the Services.

The Consultant may terminate this Agreement by written notice only if the Client has materially breached the terms of the Agreement.

At the completion of the services the Agreement is hereby terminated.

Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.

11.2 Payment on Early Termination

If the Client terminates this Agreement, or the Consultant terminates this Agreement because the Client has breached it, then the Client must immediately pay the Consultant for Services provided to the date of termination.

If the Client terminates the Agreement for reasons other than a default by the Consultant, or if the Consultant terminates the Agreement because of a default by the Client, the Client must also pay any reasonable costs that the Consultant incurs solely because of the early termination of the Agreement

11.3 Return of Property/Equipment

At the end of the Services, the Consultant must return to the Client any property, including the Client's Intellectual Property, or equipment of the Client which is in the Consultant's possession or control.

11.4 Transfer of New Intellectual Property

In the event of termination by the Client, the Consultant shall provide reasonable assistance to the Client in the transfer of the services (including delivering copies of any New Intellectual Property in the Consultant's control) to the new consultant provided that the Client has made all payments due and owing under the Agreement.

12. General Provisions

12.1 Law and Currency

This agreement is subject to New Zealand law. References to dollars are references to New Zealand dollars unless otherwise stated. Any arbitration or court proceedings about this Agreement, or the Services, must be brought and heard in New Zealand.

12.2 Consumer Guarantees Act

The Client and the Consultant agree that, where the Services are provided for the Client's business purposes, the provisions of the Consumer Guarantees Act 1993 are excluded in relation to the Services.

12.3 Changes in Legislation

If, after the date of this Agreement, the cost or duration of the Services alter because of changes or additions to any statute, regulation or by-law, or requirements of any authority that has jurisdiction over any part of the Works or the Services, the agreed changes to cost and duration of the Services will be treated as a Variation.

12.4 Events beyond Control

Should any event occur which:

- is beyond the control of either Party; and
- is neither directly nor indirectly caused by either Party; and
- prevents the performance of the Services (in whole or in part) required under this Agreement,

then those Services will be suspended until such time that it becomes practicable to recommence the Services. This does not include events personal to either Party, such as ill-health or lack of funding or resources.

In the event that there is a reasonable likelihood that the Services are not able to be recommenced, then this Agreement may be terminated by the Client.

In circumstances where the Services or part of the Services have to be suspended or delayed, the Consultant will be allowed extra time to complete the Services and such extra time should be reasonable in the circumstances.

12.5 Advertising

The Consultant must first obtain the Client's written permission if it wants to put up a sign on or near the site of the Works (or to which the Services relate) that directly or indirectly shows its involvement with the Works

12.6 Reporting

The Client and the Consultant shall review and discuss the progress of the Services, as agreed from time to time, or as reasonably requested.

12.7 Notices

All demands, notices, requirements and consents this Agreement authorises or requires, or that relate to this Agreement, must be in writing and will take effect from receipt at the address shown in the Special Conditions. These may be delivered by hand or by facsimile, in which case a written confirmation of receipt is required, or by registered letter.

12.8 No Assignment

The Consultant must not assign, transfer or subcontract all or part of its rights or obligations under this Agreement without the Client's prior written approval. This approval may be refused without the need to give reasons.

If the Consultant assigns or transfers its rights, the Consultant will remain liable for the performance of its obligations under this Agreement, unless specifically stated to the contrary in any written consent to an assignment or transfer.

12.9 Survival of Provisions

The provisions of clauses 2.10, 2.11, 5, 6, 8 and 9 shall continue in effect after termination of the Agreement.

12.10 No Waiver

Any waiver given by either Party in connection with this Agreement is binding only if it is in writing, and then strictly in accordance with the terms on which it is given. Subject to this clause, no waiver given by either Party for the purposes of this Agreement affects or limits that Party's rights against the other Party under this Agreement.

12.11 Severability

Each term of this Agreement is separately valid and binding. If for any reason either Party cannot rely on any term, all other terms will remain valid and binding, and the Parties will negotiate in good faith for an alternative term with similar financial effect for both Parties.

12.12 No Partnership

Nothing in this Agreement is to be construed as evidence of a partnership between the Parties.

12.13 GST

Where there is a reference to any payment under this Agreement, GST (or any similar tax) is to be added to the amount of that payment.

12.14 Client's Regulatory Functions

The Client has certain regulatory functions in its capacity as a local authority outside the Agreement. The Client shall be deemed not to be acting in the capacity of the Client under this Agreement when exercising these functions in good faith.

APPENDICES

(Complete on separate sheets as required)

Appendix A: Scope and Purpose of Services

Appendix B: Fees, Expenses and Payment

Appendix C: Client's Representative

Appendix D: Consultant's Key Personnel, Consultant's Representative, Other Key Personnel

Appendix E: Subconsultants

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Appendix G: Client's Hazard Identification and Notification

SPECIAL CONDITIONS – PART A

Specific Conditions of Contract

References from clauses in the General Conditions of Contract for Consultancy Services

Agreement

Additional documents forming part of the Agreement include:

Clause N°

5.1 Payment Timing*

The time for payments shall be on the 20th of the month following the month of issue of the GST invoice.

OR

The time for payment shall be _____ Working Days from the date of issue of any account.
(Delete one as appropriate)

6.2 Limitation of Liability*

The maximum amount payable shall be five times the fee with a minimum limit of \$500,000 and a maximum limit of \$2,000,000;

OR

The maximum amount payable shall be \$ _____
(Delete one as appropriate)

6.4 Duration of Liability*

The duration of liability shall be six years

OR

The duration of liability shall be _____
(Delete one as appropriate)

6.5 Insurance*

The amount of public liability insurance required shall be \$2,000,000

OR

The amount of public liability insurance required shall be \$ _____
(Delete one as appropriate)

***NB** - Where nothing is specified in the second option, the first option shall apply.

12.7 Notices

Client's Address: _____

Facsimile No: _____

Consultant's Address: Physical Address: _____

Postal Address: _____

Facsimile No: _____



**SPECIAL CONDITIONS PART B
Other Conditions of Contract**

(Include here other Special Conditions that modify the General Conditions)

