

1. Definitions

- 1.1 "FISL" shall mean Forensic and Industrial Science Ltd its successors and assigns or any person acting on behalf of and with the authority of Forensic and Industrial Science Ltd.
- 1.2 "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by FISL to the Client.
- 1.3 "Guarantor" shall mean that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.4 "Services" shall mean all Services supplied by FISL to the Client (and includes without limitation any reports or documents or suchlike) and are as described on the invoices, quotation, work authorisation or any other forms or documents as provided by FISL to the Client.
- 1.5 "Price" shall mean the price payable for the Services as agreed between FISL and the Client in accordance with clause 3 of this contract, and shall include the costs for any variation to the services.

2. Acceptance

- 2.1 Any instructions or implied instructions (which shall include without limitation the Client's acquiescence to FISL commencing to perform the services) received by FISL shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Where more than one Client has entered into this agreement, the Clients shall be deemed jointly and severally to have accepted FISL's terms and conditions and to be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of FISL.
- 2.4 The Client shall give FISL not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by FISL as a result of the Client's failure to comply with this clause.
- 2.5 Services are supplied by FISL only on the terms and conditions of trade herein to the exclusion of anything to the contrary in any communications from the Client even if the Client's communications purport to override these terms and conditions.
- 2.6 None of FISL's employees or contractors or agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by a director of FISL in writing and FISL shall not be bound by any such representations, statements, conditions or agreements.
- 2.7 The Client shall indemnify FISL for all claims, losses, liabilities, costs and expenses of any kind incurred directly or indirectly from any acts or omissions by the Client either before or after engagement of FISL.
- 2.8 The supply of Services is on a confidential basis and this is binding on both parties.

3. Price And Payment

- 3.1 At FISL's sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by FISL to the Client in respect of Services supplied; or
 - (b) FISL's estimated Price, which the Client acknowledges is an estimation only because the final Price can only be ascertained upon completion of the Services (variances in the estimated price of more than ten percent (10%) will be subject to the Client's approval before proceeding with the Services); or
 - (c) FISL's quoted Price (subject to clause 3.2) which shall be binding upon FISL if the Client accepts FISL's quoted price in writing within thirty (30) days of the quotation being given.
- 3.2 FISL reserves the right to change the Price in the event of a variation to the Services. Any variation from the plan of scheduled Services or specifications will be charged for on the basis of FISL's quotation or estimate and will be shown as extras on the invoice. Payment for all extras must be made in full at their time of completion.
- 3.3 At FISL's sole discretion a deposit may be required.
- 3.4 At FISL's sole discretion:
 - (a) payment shall be due on delivery of an invoice for the Services; or
 - (b) payment shall be due before delivery of the Services; or
 - (c) payment for approved Clients shall be due twenty (20) days following the end of the month in which an invoice is posted to the Client's address or address for notices.
- 3.5 Payment of Services funded through the Legal Services Agency payment will be due sixty (60) days following the date of the invoice.
- 3.6 If the Client states that the Price is to be paid by a third party other than the Client and if that nominated third party does not pay the Price within thirty (30) days of delivery or attempted delivery of the Services, then the Client shall pay the Price to FISL forthwith upon being notified of that third party's failure to pay.
- 3.7 Time for payment of the Price shall be of the essence.
- 3.8 In the event that FISL is required to attend Court on behalf of the Client, the Client shall pay any costs incurred and will be shown as an extra on the invoice. Payment for all extras must be made in full at their time of completion.
- 3.9 Payment shall be made by cash, or by cheque, or by bank cheque, or by credit card, or by direct credit, or by any other method as agreed to between the Client and FISL.
- 3.10 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

4. Delivery Of Services

- 4.1 At FISL's sole discretion delivery of the Services shall take place when the Client takes possession of the Services at the Client's nominated address.
- 4.2 The Client shall make all arrangements necessary to take delivery of the Services whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Services as arranged then FISL shall be entitled to charge a reasonable fee for redelivery.
- 4.3 Delivery of the Services to a third party nominated by the Client is deemed to be delivery to the Client for the purposes of this agreement.
- 4.4 FISL may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 4.5 The failure of FISL to deliver the Services shall not entitle either party to treat this contract as repudiated.

5. Risk

- 5.1 In the event that items or materials relevant to the supply of the Services are held by FISL, FISL shall take reasonable care in storing the items or materials but risk (including, but not limited to, insurance risk) in the items or materials remains with the Client. Under no circumstances shall the liability of FISL for items or materials held by FISL exceed the fair market value of the items or materials.
- 5.2 Subject to clause 5.1, FISL and its officers, employees or contractors shall not under any circumstances be liable to the Client for any loss of any nature, save for the Price, suffered by the Client which is caused by any alleged or actual act or omission by FISL.
- 5.3 The Services are provided to the Client only. In the event that any other person alleges that any act or omission by FISL or its officers, employees or contractors has caused loss, the Client shall indemnify FISL and its officers, employees and contractors against all claims, losses, liabilities, costs and expenses of any kind incurred directly or indirectly as a result of any such allegation or claim arising from or relating to any such act or omission.

6. Title

- 6.1 FISL and Client agree that ownership of and entitlement to use the Services shall not pass until:
 - (a) the Client has paid FISL all amounts owing for the particular Services; and
 - (b) the Client has met all other obligations due by the Client to FISL in respect of all contracts between FISL and the Client.
- 6.2 Receipt by FISL of any form of payment other than cash shall not be treated as payment until that form of payment has been honoured, cleared or recognised and until then FISL's ownership or rights in respect of the Services shall continue.
- 6.3 FISL may at any time before ownership of and entitlement to use the Services passes to the Client give notice in writing to the Client to return the Services or any of them to FISL. Upon such notice being given the rights of the Client to ownership or any other interest in the Services shall cease, and if the Client fails to return the Services to FISL then FISL or FISL's agent may enter upon and into land and premises owned, occupied or used by the Client or any premises where the Services are situated as the invitee of the Client and take possession of the Services, and FISL shall not be under any circumstances liable for any loss or damage alleged to have been caused by any action by FISL under this clause.

7. Error and Omissions

- 7.1 The Client shall inspect the Services on delivery and shall within seven (7) days of delivery notify FISL of any alleged defect, errors, omissions or failure to comply with the description or quotation. The Client shall afford FISL an opportunity to inspect the Services within a reasonable time following delivery if the Client believes the Services are defective in any way. If the Client fails to comply with these provisions, the Services shall be conclusively presumed to be in accordance with the terms and conditions and free from any defect or damage.
- 7.2 For defective Services which FISL has agreed in writing that the Client is entitled to reject, FISL's liability is limited to either (at FISL's discretion) replacing the Services or remedying the Services provided that the Client has complied with the provisions of clause 7.1.

8. Consumer Guarantees Act 1993

- 8.1 If the Client is acquiring Services for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Services by FISL to the Client.

9. Intellectual Property

- 9.1 Where FISL has designed, drawn or written Services for the Client, then the copyright in those designs and drawings and documents shall remain vested in FISL, and shall only be used by the Client at FISL's discretion.
- 9.2 The Client warrants its instructions to FISL will not cause FISL to infringe any patent, registered design or trademark in the supply of the Services and the Client agrees to indemnify FISL for all losses, costs, liabilities or expenses of any kind arising from any action taken by a third party against FISL in respect of any such infringement or alleged infringement.

10. Default & Consequences Of Default

- 10.1 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 one half percent (2.5%) per calendar month (and at FISL's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 10.2 In the event that the Client's payment is dishonoured for any reason the Client shall be liable for any dishonour fees incurred by FISL.
- 10.3 If the Client defaults in payment of any invoice when due, the Client shall indemnify FISL from and against all costs and disbursements incurred by FISL in pursuing the debt including legal costs on a solicitor and own client basis and FISL's collection agency costs.
- 10.4 Without prejudice to any other remedies FISL may have, if at any time the Client is in breach of any obligation (including those relating to payment), FISL may suspend or terminate the supply of Services to the Client and any of its other obligations under the terms and conditions. FISL will not be liable to the Client for any loss or damage the Client suffers because FISL has exercised its rights under this clause.
- 10.5 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10%) of the amount overdue (up to a maximum of two hundred dollars (\$200.00)) shall be levied for administration fees which sum shall become immediately due and payable.
- 10.6 Without prejudice to FISL's other remedies at law FISL shall be entitled to cancel all or any part of the Services which remains unfulfilled and all amounts owing to FISL shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to FISL becomes overdue, or in FISL's opinion the Client will be unable to meet its payments as they fall due; or
 - (b) the Client 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
 - (c) a receiver, manager, liquidator (provisional or otherwise), administrator or similar person is appointed in respect of the Client or any asset of the Client.

11. Cancellation

- 11.1 FISL may without cause cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are delivered by giving written notice to the Client. On giving such notice FISL shall repay to the Client any sums paid on account of the Price.
- 11.2 In the event that the Client cancels delivery of the Services the Client shall be liable for any loss incurred by FISL (including, but not limited to, any loss of profits) as at the date of cancellation.

12. Privacy Act 1993

- 12.1 The Client and the Guarantor/s (if separate to the Client) authorises FISL to:
 - (a) collect, retain and use any information about the Client and/or Guarantors, for the purpose of assessing the Client's and/or Guarantors creditworthiness or marketing products and services to the Client and/or Guarantors; and
 - (b) disclose information about the Client and/or Guarantors, whether collected by FISL from the Client and/or Guarantors directly or obtained by FISL from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client and/or Guarantors.
- 12.2 Where any Client and/or Guarantors is a natural person the authorities under clause 13.1 are authorities or consents for the purposes of the Privacy Act 1993.
- 12.3 The Client and/or Guarantors shall have a right to request from FISL a copy of the information about the Client and/or Guarantors retained by FISL and a right to request FISL to correct any incorrect information about the Client and/or Guarantors held by FISL.

13. General

- 13.1 If any provision in these terms and conditions is invalid, void, illegal or unenforceable, the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 13.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.
- 13.3 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 FISL or to withhold payment of any invoice because part of that invoice is in dispute.
- 13.4 FISL may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 13.5 FISL reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which FISL notifies the Client of such change.
- 13.6 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.
- 13.7 The failure by FISL to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect FISL's right subsequently to enforce that provision.