

CONDITIONS OF ENGAGEMENT

1. Unless the context otherwise requires then in construing the Agreement: **"Agreement"** means the contract to provide the Services constituted by the Proposal and these Conditions of Engagement. **"Company"** means Edan Property Pty Ltd ABN 30 626 351 862 and its Related Entities. **"Proposal"** means the accompanying letter from the Company to the Client specifying the Company's professional fees in respect of the Project. **"Project"** means the Client's project specified in the Proposal. **"GST"** and **"Tax Invoice"** have the meaning given by A New Tax System (Goods and Services Tax) Act 1999. **"Client"** means the client to whom the Proposal is addressed. **"Services"** means the professional services to be provided by the Company to the Client in respect of the Project. **"Related Entity"** has the same meaning given by the Corporations Act 2001.

2. The Company shall provide the Services in accordance with the Agreement.

3. (a) In consideration of the Company agreeing to provide the Services the Client must pay to the Company the Fee and the Reimbursable Expenses as set out in the Proposal (including GST) at the time and in the manner specified in the Proposal. All time spent on assignment including consultations planning, project management, project meetings, inspections, travelling, delays or interruptions (caused by inclement weather, industrial action, site trafficability problems or other conditions beyond the direct control of the Company), field testing, analysis, calculation, assessment, drafting, word processing, presentation of results, interpretation and reporting will be charged at the following Standard Hourly Rates (plus GST):

Development Management Services:

Role	Rate
Director	\$350
Senior PM	\$300
Project Manager	\$250
Assistant DM	\$200
Site office Staffing	\$180
Developer/IT Admin	\$180
Project Admin / Superintendent	\$150
Clerical / Administration	\$120
Book keeping	\$120
Expenses	Cost +10%

Civil Design Services:

Role	Rate
Director	\$ 350
Principal Engineer	\$ 300
Senior Engineer	\$ 250
Experienced Engineer / Snr Designer	\$ 200
Senior Draftsperson	\$ 180
Engineer	\$ 180
Experienced Draftsperson	\$ 180
Graduate Engineer	\$ 150
Draftsperson	\$ 150

(b) Time spent involved in research and development or as an expert witness on legal matters, mediation, arbitration and litigation will be charged at not less than 50% in excess of the Standard Hourly Rates listed in subclause 3(a), for all aspects of work including investigation, analysis, reporting, briefing of legal advisors, appearance to give evidence, participation in mediation and other services as required. (c) Time spent travelling, when incurred at the request of the Client, will be charged at the hourly rates specified in subclause 3(a) based on the following:

- 8.00 am to 6.00 pm : Full Hourly Rate
- 6.00 pm to 8.00 am : One Third of the Full Hourly Rate

(d) All necessary flights, transfers, car hire, accommodation, etc must be arranged and paid for by the Client, prior to departure unless specifically arranged otherwise. All international flights must be business class. (e) Company vehicles will be charged at the rate of \$1.00/km (plus GST). All other Project related expenses are the Client's responsibility. Such expenses include services of other consultants and contractors, hire of plant and equipment, shipping, living expenses and consumable items. Such expenses will be charged at cost plus a service fee of 15% if they are processed and paid by the Company.

4. (a) All monies payable by the Client to the Company must be paid in full within the payment period specified in the Proposal, or if not specified,

within 14 days of the date of a Tax Invoice for the relevant part of the Services.

(b) If the Client fails to pay all monies as and when due, the Company shall be entitled to interest at the rate Bank Bill Swap Rate (BBSR) + 8% per annum on all monies which are not so paid, calculated on daily balances from the date upon which payment became due until the date of payment in full by the Client. (c) The Company will also be entitled to recover as a debt all costs, legal fees and expenses, court costs and fees, and such further sums as will fully recompense the Company for all its costs expenses and losses incurred in respect of failure refusal or default of the Client to pay in full any invoice. Legal costs and fees shall be recoverable on a solicitor/own client basis. (d) Final project certification or documents will not be provided until payment is received in full. (e) If the performance of the Services is delayed beyond a reasonable period for any reason other than a breach of the Agreement by the Company the Client shall pay to the Company a reasonable sum of money to cover the consequential costs, and expenses suffered by the Company as a result of the delay. (f) The Fee for the Services performed under the Agreement has been calculated on the assumption of both parties that the Services are to be provided under circumstances normally pertaining to the carrying out of the type of project in question. The parties agree that if the Company is required to perform the Services in circumstances other than those normally pertaining to such a project or if there is a change in the scope, timing or order of the services, then the Company shall be entitled to additional payment of an amount which is reasonable in the circumstances. (g) If after the date of the Agreement there is any change to the laws, by-laws, regulations or ordinances of the Commonwealth of Australia or a State or Territory of Australia or any statutory authority and that change directly or indirectly increases the costs or reimbursable expenses incurred by the Company in performing the Services then the fee and reimbursable expenses otherwise payable to the Company under the Agreement shall be increased accordingly.

5. The Company shall exercise reasonable skill and care in the performance of the Services in accordance with the standards of a professional consulting engineer. The Company shall have no liability whatsoever in respect of any failure to exercise a degree or level of care beyond such reasonable skill and care.

6. The Client indemnifies and holds the Company harmless against all claims, costs and demands (including negligence) in relation to the services provided by any third party, including a third party engaged by, or at the suggestion of, the Company.

7. (a) The liability of the Company to the Client arising out of the performance or non-performance of the Services, whether under the law of contract, tort (including negligence) or otherwise shall be limited to the cost of rectifying the works which are the subject of the Services and without limiting the foregoing such liability of the Company shall not include any liability for consequential loss, economic loss, indirect loss, special loss, incidental loss, loss of profits and/or loss of potential profits. The liability of the Company for the cost of rectifying the works which are the subject of the Service is subject to the maximum liability specified in subclause 7(b). (b) The maximum liability of the Company to the Client arising out of the performance or non-performance of the Services, whether under the law of contract, tort (including negligence) or otherwise, shall be limited to the agreed fee.

8. The Company shall be deemed to have been discharged from all liability in respect of the Services, whether under the law of contract, tort (including negligence) or otherwise, at the expiration of one year from the completion of the Services, and the Client (and persons claiming through or under the Client) shall not be entitled to commence any action or claim whatsoever against the Company (and/or any employee, director and/or agent of the Company) in respect of the Services after that date.

9. (a) The Company does not give any warranty nor accept any liability in relation to the performance or non-performance of the Services except to the extent, if any, required by law or specifically provided for in the Agreement. (b) If apart from this Clause any warranty would be implied whether by law, custom or otherwise, that warranty is to the full extent permitted by law hereby excluded. (c) Nothing contained in the Agreement shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any goods or services pursuant to the Agreement of all or any of the provisions of Part V of the Trade Practices Act 1974 (as amended) or any relevant State Act or Territorial Ordinance which by law cannot be excluded, restricted or modified.

10. If the Company considers that the information, documents and other particulars made available to it by the Client are not sufficient to enable the Company to provide the Services in accordance with the Agreement the Company may advise the Client which shall then provide such further assistance, information or other particulars as necessary in the circumstances.

11. The Client must as soon as practicable:

(a) make available to the Company all information, documents and other particulars relating to the Client's requirements for the Project;
(b) arrange for all approvals, authorities, licences and permits which are required from governmental municipal or other responsible authorities for the lawful implementation and completion of the Project to be so obtained.

12. If the Client becomes aware of any matter which may change the scope or timing of the Services or the Project then the Client must give written notice to the Company as soon as practicable after the Client becomes aware.

13. The Client must carry out the special obligations (if any) specified in the Proposal.

14. The Client acknowledges that:

(a) copyright in all drawings, reports, specifications, bills of quantities, calculations, computer programs and other documents provided by the Company in connection with the Project shall remain the property of the Company;
(b) the Client alone shall have a licence to use the above referenced documents for the purpose of completing the Project, however the Client must not use or make copies of such documents in connection with any work other than work comprised in the Project unless express written approval is given in advance by the Company;
(c) if the Client is in breach of any obligation, pursuant to the Agreement or any obligation pursuant to any other agreement between the Company and the Client or an entity which is a Related Entity to the Client is in breach of any obligation pursuant to any other agreement between the Company and such entity which is a Related Entity to the Client, to make payment to the Company, the Company may revoke the licence referred to above, and the Client shall then return all documents referred to above including copies.

15. The Client must ensure that all Project fabrication/shop drawings are forwarded to the Company for written approval prior to the commencement of fabrication. The Client acknowledges that the Company shall have no liability for changes made by the Company to such drawings and that certification by the Company may not be provided unless such drawings are reviewed and approved by the Company.

16. The Company may suspend or terminate its obligations under the Agreement, in the event that:

(a) monies payable under the Agreement or any other agreement between the Company and the Client or between the Company and any entity which is a Related Entity to the Client are outstanding for more than 30 days;
(b) any substantial breach by the Client of its obligation under the Agreement or under any other agreement between the Company and the Client or any substantial breach by any entity which is a Related Entity to the Client under any other agreement between the Company and such entity which is a Related Entity to the Client, when the breach has not been remedied within 30 days of written notice from the Company requiring the breach to be rectified.

17. The Agreement may be terminated by the Company, other than in reliance on any breach of the Agreement or any breach of any other agreement by the Client or by any entity which is a Related Entity to the Client, on the expiration of reasonable notice given by the Company in writing. Upon such termination the Company shall be entitled to a reasonable payment for Services provided in accordance with the Agreement.

18. Unless advised otherwise by the Client in writing the Company can use information regarding the Project in any promotional material it may prepare or use.

19. Termination:

(a) shall be without prejudice to any claim with either party may have against the other in respect of any breach of the terms of the Agreement that occurred prior to the date of termination.
(b) of the Agreement shall be given notice by the client with a minimum 4 weeks notice. Any committed work by the Company will be payable by the Client within this period.

20. If the Company considers it appropriate to, it may with the Client's prior

approval, which shall not be unreasonably withheld, engage another company to assist the Company in specialist areas. The Client accepts responsibility for all monies payable to such other Company.

21. Neither party may assign, transfer or sublet any obligation under the Agreement without the written consent of the other. Unless stated in writing to the contrary, no assignment, transfer or subletting shall release the assignor from any obligation under the Agreement.

22. Circumstances may require the Company to depart from the method proposed for the Project. The Company shall be entitled to vary the method as required and shall have no liability in respect thereof.

24. Electronic documentation shall be provided by the Company, unless otherwise noted. Rates for additional sets of documentation or off site printing are as follows per sheet +GST:
A4 BW = \$0.25 | A4 Colour = \$0.50 | A3 BW = \$0.80 | A3 Colour = \$1.00 | A1 BW = \$8.00 | A1 Colour = \$12.00 | A2 BW = \$8.00 | A2 Colour = \$12.00 | A0 BW = \$8.00 | A0 Colour = \$12.00

25. Unless otherwise specified in the Proposal, the appointment does not include:

- Design checking, inspections or certification by an accredited certifier in accordance with the EP&A Act
- Geotechnical investigation or excavation inspections
- Project fabrication/shop drawing preparation or review
- Preparation of work-as-executed documentation
- Sub-consultant fees and charges
- Lodgement and regulatory fees and charges
- Any works beyond the boundary of the subject property.

26. The Company reserves the right to modify the Agreement upon reasonable notice.

27. The Client indemnifies and holds harmless the Company in respect of any claim against the Company caused by or arising out of any act or thing done by the Company in good faith and purportedly pursuant to a right granted to the Company under the provisions of the Agreement.

28. A notice purported to be served under the Agreement shall be deemed to have been properly served if the same is in writing and is sent to the usual business address of the recipient by certified mail, facsimile transmission or personal delivery for which a receipt or transmission report is obtained.

29. All reference to monies in the Agreement shall be deemed to be references to Australian currency and all monies to be paid shall be paid to the relevant party in places he may reasonably nominate in writing.

30. The Agreement is governed by the laws of New South Wales and the parties submit to the jurisdiction of courts of New South Wales.

Client Signature: _____

Date: ____/____/____