

• Terms and Conditions

We at PatAsh and Civil Group Pty Ltd are pleased to be working towards an ongoing relationship with you and provide these Contractor terms and forms to register that relationship and help ensure that it is mutually beneficial into the future, for us, you, and our clients.

When you have read the Contractor Agreement, Please:

Complete the details in the schedule

Sign the Agreement by completing the execution clause applicable to you (eg: company, sole trader)

Complete the forms attached to the Agreement and ensure that all required attachments are provided, and

Return signed Agreement, forms and required attachments to your PACG contact above, scanned and emailed to the email address for PACG noted in the Schedule, or posted to the address for PatAsh and Civil Group noted in the schedule.

Please forward any queries you have to the PatAsh and Civil Group contact.

Contractor agreement

PARTIES

PatAsh and Civil Group Pty Ltd, trading as PatAsh and Civil Group, of PO Box 424, North Geelong VIC 3215

and

The Contractor named in the Schedule ('Contractor')

RECITALS

A. PACG conducts a Civil Construction and Plant Hire business in Victoria. Its further details are in the schedule.

B. The Contractor owns and/or operates a Vehicle/s and/or Plant suitable for, and is experienced in, and to the extent necessary licensed for, the provision of Services. Its further details are in the Schedule.

C. The Contractor has agreed to provide the services to PACG on the terms and conditions set out in this agreement.

DEFINITIONS and INTERPRETATION

Unless the opposite intention appears:

- a) 'Business Day' means a week day on which trading banks are open for banking business;
- b) 'Insolvency Event' means insolvency within the meaning of the Corporations Act 2001, failure to comply with a statutory demand, appointment of administrator or similar officer, being subject of an order or resolution for winding up or similar, being subject to bankruptcy proceedings or being subject to any similar event whether as a corporation or an individual;
- c) 'Law' means any statute, regulation, determination, code, ordinance, standard or similar that has the force of law, and guidelines of all relevant governments, authorities and bodies, including but not limited to those in relation to traffic, road safety and road management rules, occupational health and safety, environmental protection, mass and dimension limits, load restraint rules, loading and securing vehicles and plant, and 'chain of responsibility' rules in any relevant jurisdiction at any relevant time;
- d) 'Materials' means soil and other related materials;
- e) 'Proposal' means a proposal, as described in clause 2, for the Contractor to carry out Services;
- f) 'Representatives' means officers, employees, contractors or sub-contractors as the case may be, agents and consultants and the like;
- g) 'Services' means services in relation to transporting Materials;

- h) 'Term' means the period described in clause 1;
- i) a reference to any Law includes a reference to it as amended, supplemented or substituted from time to time;
- j) anything required to be done on a day that is not a Business Day where it is required to be done, must be done on the next Business Day;
- k) a reference to PACG includes a reference to any of its related or associated entities at any time and this agreement is for the benefit of PACG and any such entity;
- l) the singular includes the plural and vice versa;
- m) a reference to one gender includes a reference to any other;
- n) the Recitals form part of the terms of this agreement.

OPERATIVE PROVISIONS

1 TERM

This agreement commences on the Commencement Date referred to in the Schedule, or on the date the last party signs if no date is inserted in the Schedule. This agreement will continue until terminated under its terms, and in any case, either party may terminate this agreement for any reason on 14 days written notice to the other party.

2 SERVICES

2.1.1 PACG may communicate a Proposal to the Contractor by providing it to the Contractor by any medium, and may make the same Proposal to any number of other independent contractors, in its complete discretion.

2.1.2 A Proposal remains open for acceptance until it has been accepted by the Contractor, or until it is withdrawn by PACG.

2.1.3 The Contractor acknowledges that it has no exclusive right in respect of Proposals, is not entitled to any minimum number or frequency of Proposals from PACG, or a minimum amount of fees or income through Services to PACG.

2.1.4 If there is any conflict between the terms of this agreement and those of a Proposal or any other documentation related to this agreement, this agreement will prevail to the extent of such conflict.

3 RELATIONSHIP OF PARTIES

3.1.1 Nothing in this agreement, whether express or implied, is intended or will be taken to create or suggest a partnership, joint venture, or agency or employment between PACG and the Contractor.

3.1.2 The Contractor is an independent contractor owning and conducting its own business. Subject to this agreement and the particular requirements and Services it provides under this agreement, the Contractor will determine its hours of work, processes and policies applicable to its business and its performance of the Services. There is no exclusive arrangement between the parties in any circumstance. The Contractor is free to provide its service to anyone at any time, and to accept or reject or reject Proposals from PACG in its absolute discretion.

4 CONTRACTOR OBLIGATIONS

4.1 The contractor must perform its obligations under this agreement and provide the Services :

4.1.1 in a safe, efficient, professional, workmanlike and businesslike manner, and to the standard of quality expected of a contractor providing services the same or similar to the Services, including ensuring that nay person involved in the provision of the Services maintains a professional appearance, manner and conduct at all relevant times;

4.1.2 with all reasonable and professional care appropriate in performing the Services, and in operating Vehicles or Plant for the purposes of this agreement, including carrying out all reasonable and lawful requirements in respect of loading, unloading, carriage and

delivery;

4.1.3 in compliance with all applicable Laws, licenses and permits; and

4.1.4 in accordance with all Proposals it has accepted and to the reasonable satisfaction of PACG.

4.2 The Contractor must :

4.2.1 notify PACG immediately it is aware of any :

(a) possible inability of the Contractor to perform any Services in compliance and accordance with this agreement;

(b) accident or damage affecting Vehicle, Plant or other material under the control of the Contractor;

(c) breach or potential breach of any road safety Laws;

4.2.2 at the completion of the Services relating to the relevant Proposal, or at any other time properly required, promptly submit to PACG and whoever else properly requires, all duly and accurately completed documents, records and receipts ('Dockets') issued by PACG or its client or customer in relation to provision of Services by the Contractor;

4.2.3 account to PACG for the use and storage of any equipment provided by PACG for the purposes of provision of Services, and use all reasonable care in respect of such use and storage.

4.2.4 ensure compliance with Laws and requirements in respect of site risk assessments and safety checks and ensure that all Vehicle and Plant are safe for the purposes of undertaking the Services;

4.2.5 keep Vehicle and Plant Properly maintained and serviced; registered and comprehensively insured at all times during the Term;

4.2.6 ensure compliance with all Laws and requirements in respect of statutory mass and load and dimensions, provide to PACG details of Vehicles that the contractor will use in the performance of the Services and all relevant risk assessments, and ensure all load and dimension markings on the vehicle and Plant are accurate;

4.2.7 ensure that any person operating Vehicle or Plant at any relevant time holds a current full licence of the relevant type, and operates such Vehicle or Plant in accordance with all relevant Laws;

4.2.8 not, and must ensure that each of its Representative does not, operate or allow any other person to operate Vehicle or Plant while :

(a) in breach of any statutory limit in relation to concentration of, or under the influence of, alcohol or any drug; or

(b) in excess of any applicable mass or loading limits or dimensions.

4.3 The Contractor :

4.3.1 is solely responsible and liable in respect of all day-to-day expenses including fuel, and for repairs and maintenance of Vehicle and Plant and for all costs of insurance, registration and licensing in relation to Vehicle and Plant and in relation to drivers; and

4.3.2 must keep accurate records of maintenance, repairs and servicing of Vehicle and Plant. And must provide a copy of such records to PACG upon its reasonable request.

5 CONTACTOR WARRANTIES

The Contractor warrants that :

5.1 it and all of its representatives are competent to properly and sagely carry out the Services;

5.2 it and all of its Representatives possess the necessary skills, qualifications and experience to properly and safely carry out the Services;

5.3 all the information provided by the Contractor to PACG for the purposes of this agreement is accurate and complete;

5.4 it and all its Representatives will comply with The Heavy Vehicle Driver Fatigue National Model legislation ensuring all requirements for work/rest are satisfied;

5.5 it will conduct itself and will ensure that its Representatives conduct themselves in a manner consistent with relevant industry codes of conduct and standards for professional drivers.

6 INTELLECTUAL PROPERTY

The Contractor will:

6.1 not use the brand name 'PACG' or any associated brand name, trade mark or logo,

registered or unregistered, other than during and as necessary and appropriate for the purposes of the provision of Services under this agreement: and
6.2 immediately upon termination of this agreement cease to use any such brands, marks or logos and return to PACG, or deal with as directed by PACG, all and any documents and items bearing any such brands, marks and logos.

7 PAYMENT

7.1 PACG will pay the contractor in arrears in an amount according to the relevant Proposal, for Services completed 30 days EOM in receipt of the relevant Dockets and valid tax invoice, subject to :

7.1.1 Proper completion of the Services and the proper performance by the Contractor of its obligations under this agreement.

7.1.2 Any deductions which PACG may properly make against amounts owing to the Contractor under this agreement, which include but are not limited to fees, commissions and insurance contributions.

7.2 PACG will make payments by direct deposit into the bank account nominated by the Contractor and set out in the Schedule, or in such other manner as PACG may choose. The Contractor will provide bank account details upon signing this agreement, and authorises PACG to make direct payment into that account.

7.3 The Contractor acknowledges that PACG has no obligation to pay for any part of the Services for which a valid tax invoice has not been received.

7.3.1 PACG will treat any invoice dated a previous month but received after the 15th of current month, as the date received and this invoice will fall within the 30 day EOM payment terms from the date received.

7.4 The Contractor acknowledges that if it does not provide PACG with an ABN, PACG is obliged to deduct 46.5%, or other such percentage as required by law at any time, of amounts payable to the Contractor, and to remit that amount to the Australian Tax Office as PAYG tax.

7.5 The Contractor warrants that it is registered for GST purposes, and must advise PACG if it ceases to be registered for GST.

8 LAWS AND POLICIES

8.1 The Contractor must :

8.1.1 inform itself in relation to all applicable environmental, occupational health and safety ('OHS') and other Laws and PACG's OH & S policies, comply with such Laws and policies and ensure that its Representatives are so informed and comply;

8.1.2 notify PACG immediately if a breach of any such Laws or policies has occurred, or may occur, or if any notifiable incident occurs during the provision of Services, or if the Contractor is issued with any notice by a regulating authority in relation to matters governed by any such Laws.

8.1.3 comply with, and ensure that its Representatives comply with, any reasonable instructions by PACG, or any site controller or regulatory authority in relation to any such Laws or policies;

8.1.4 provide upon request by PACG evidence to the satisfaction of PACG that the Contractor and its Representatives comply with all such Laws and policies, including provision of copies of all and any relevant certificates, licences and permits;

8.2 If PACG reasonably believes that the Contractor or any of its Representatives are or may be breaching any applicable environmental, OHS or other Laws, PACG may give to the Contractor notice of termination of this agreement with immediate effect.

9 LIABILITY, INSURANCE, INDEMNITIES and ACKNOWLEDGEMENTS

9.1 The Contractor is and remains the sole employer or principal, of any person providing services to the Contractor for the Contractor to carry out the Services under this agreement. Accordingly, the Contractor alone is responsible for the payment of and will indemnify PACG against all and any costs, losses, demands, expenses or liabilities ('Claims') in respect of each such person, including but not limited to all WorkCover and other workers compensation insurance premiums, levies and excesses, taxation instalment

deductions, superannuation contributions and every other obligation under a relevant Law arising from the employment or engagement of such person. If and when PACG is required to pay any such amounts, the Contractor will reimburse it in full on demand.

9.2 The Contractor indemnifies and will keep indemnified PACG and its Representatives against any Claims that arise from any breach of this agreement by the Contractor or from any negligent act or omission of the Contractor or any of its Representatives in the carrying out of the Services.

9.3 The Contractor must at its own cost take out and keep current at all times during the Term all compulsory insurances with respect to Vehicle and Plant, WorkCover insurance, and public liability insurance for cover of at least \$20 million. The Contractor must, at the Commencement Date and at all other times when reasonably requested by PACG, provide written evidence that it is complying and has complied with its obligations under this clause.

9.4 The Contractor must, at the direction of PACG make good at its own cost any Services that do not conform to any of PACG's specifications or requirements or that are not done in accordance with the relevant requirements of this agreement.

9.5 The Contractor will indemnify PACG against any Claims (including all legal fees) arising from the provision of the Services, any breach of this agreement by it or its Representatives, or any unlawful or negligent act or omission of the Contractor or its Representatives

9.6 To the extent permitted by law, the Contractor releases PACG from all Claims or injury in connection with the Services, other than Claims or injury to the extent caused by PACG's negligence or breach of this agreement.

9.7 The Contractor acknowledges that in entering into this agreement and in providing Services it has not and will not rely on any statement or representation on the part of PACG or its Representatives in relation to any matter connected with this agreement.

9.8 To the fullest extent permitted by law PACG excludes all liability to the Contractor and to its Representatives in respect of any Claims arising directly or indirectly from any negligent act or omission of PACG or any of its Representatives.

9.9 Notwithstanding anything in this agreement, a party is not liable to the other party to make any payment (whether by way of indemnity, damages or otherwise) for any disputed invoice, breach of this agreement or for negligence unless a Claim is made in writing within six months after the circumstances giving rise to the claim were first known or ought to have been known by the party claiming. Any such Claim must include reasonable detail in respect of the nature of the Claim and the amount sought.

9.10 The Contractor acknowledges that PACG has no obligation to make any superannuation contribution in respect of the Contractor to any person employed or engaged by the Contractor.

9.11 Neither party will be liable to the other for any indirect or consequential loss of any kind, whether for breach or negligence. The parties agree that indirect or consequential loss includes loss of business opportunity, loss of profits, payment of liquidated sums, penalties or damages under any other agreement.

9.12 A party (first party) must notify the other party as soon as practicable of any third party claim is made that could, if satisfied, permit the first party to make a claim against the other party under this agreement. The first party will, if requested by and at the expense of the other party, take such action as the other party may direct to avoid, dispute, defend or settle

the claim. The other party will put the first party in sufficient and timely funds to enable it to pay all reasonable costs and expenses of any such directed action, and the first party will comply with the directions of the other party.

10 SUBCONTRACTING AND ASSIGNMENT

10.1 Subject to obtaining PACG's prior written consent, the Contractor may assign any of its rights or subcontract any of its obligations under this agreement, subject to demonstrating that :

10.1.1 the proposed assignee or subcontractor is a suitably qualified and experienced provider of services of the same kind as or similar to the Services; and

10.1.2 has sufficient resources to properly perform the Services.

In the event of any such assignment or subcontracting, the Contractor will remain responsible for its obligations to PACG under this agreement as though the assignment or subcontracting had not occurred.

10.2 PACG may at any time by notice in writing to the Contractor assign to any person the benefit of PACG's rights and remedies under this agreement.

11 CONFIDENTIALITY AND NON-SOLICITATION

11.1 Each party will use any of the other party's confidential information that it is provided or has access to by virtue of this agreement solely for the purposes of this agreement, and will keep such information confidential and not disclose it or allow it to be disclosed to any third party except with the consent of the party who owns it or to whom it relates, or otherwise for the purpose of seeking professional advice or as required by law.

11.2 The Contractor must not at any time during the Term and for a period of twelve months after termination of this agreement, whether on its own account or as an agent, officer or employee of any person, solicit (directly or indirectly) the provision of services the same or similar to the Services provided under this agreement to any person who was a customer of PACG during the Term.

12 TERMINATION FOR DEFAULT

12.1 The Contractor is in default for the purposes of this agreement if the Contractor :

12.1.1 fails to comply with any provision of this agreement;

12.1.2 commits an act or omission in the nature of serious and wilful misconduct;

12.1.3 becomes permanently incapacitated or of unsound mind; or

12.1.4 becomes subject of an Insolvency Event.

12.2 If the Contractor is in default under clause 12.1.1, PACG may serve a written notice on the Contractor specifying the default and the expenses associated with the default, and stating

that this agreement will be terminated within two Business Days without further notice unless the default is remedied and all the expenses are paid within that time.

12.3 If a notice served under clause 12.2 is not complied with then this agreement is immediately at an end, without affecting any accrued rights of any party.

12.4 If the Contractor is in default under clause 12.1.2, 12.1.3 or 12.1.4, PACG may immediately end this agreement by serving a written notice to that effect on the Contractor, without affecting any accrued rights of any party. The agreement ends if a Contractor dies.

12.5 Upon termination of this agreement :

12.5.1 the Contractor must immediately return to PACG, or deal with in accordance with its written directions, all equipment provided by PACG, all Dockets and all confidential information of PACG in the possession or control of the Contractor; and

12.5.2 the Contractor must immediately cease using and remove, as the case may be, all of PACG's names, marks, branding and other intellectual property.

13 DISPUTE RESOLUTION

13.1 A party may not commence Court proceedings in relation to a dispute relating to this agreement until it has exhausted the procedures in this clause 13, unless the party seeks appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not compensable in damages.

13.2 If there is a dispute between the parties relating to this agreement, then within five Business Days of a party notifying the other party of a dispute, senior representatives from each party

will meet and must use reasonable endeavours and act in good faith to resolve the dispute through discussions.

13.3 If the dispute is not resolved within five Business Days of notification of the dispute under clause 13.2, the parties will submit the dispute to mediation, administered by a reputable alternative dispute resolution organisation. The parties will share the cost of mediation equally, and if the parties cannot agree on a decision relevant to the conduct of the mediation, then such decision will be referred to the head for the time being of the Law Institute of Victoria.

14 GENERAL

14.1 Each party will pay its own costs in connection with the negotiation, preparation and execution of this agreement.

14.2 Any notice given under this agreement must be in writing and must be hand delivered or sent by pre-paid post to the recipient's address specified in the Schedule, or sent by facsimile transmission to the recipient at the fax number (if any) specified in the Schedule.

14.3 Each party will do all things and execute all documents as may be necessary or desirable to give full effect to the provisions of this Agreement and the transactions contemplated by it.

14.4 Nothing in this agreement will be interpreted to exclude the application of any relevant Law.

14.5 This agreement is governed by and will be construed in accordance with the laws of the

state or territory in which the Services are provided.

14.6 This agreement may only be amended in writing signed by each party, or assigned in writing signed by each party and in accordance with this agreement.

14.7 No failure or delay by a party in exercising any right or remedy operates as a waiver. A single or partial exercise of any right or remedy does not preclude the valid further or other exercise of that or any other right or remedy. A waiver is not valid or binding unless made in writing.

14.8 Clauses 8.1.2 and 12.5.1 and those aspects of clause 9 that are capable of it, will continue to apply notwithstanding termination of this agreement for any reason.

14.9 This agreement may be executed in any number of counterparts and all the counterparts together will constitute one and the same instrument.

14.10 Time is of the essence as regards all dates, periods of time and time specified as one with which the Contractor must comply.

14.11 This agreement constitutes the entire agreement between the parties with respect to its subject matter, and supersedes all and any previous agreements, contracts, arrangements or understandings made between the parties.