



**TRIAxIAL**  
CONSULTING

COMPLEX PROBLEMS  
RESOLVED SIMPLY

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## **STANDARD TERMS OF ENGAGEMENT:**

1. The Consulting Engineer shall provide to the Client the Services described in a detailed document .
2. The Consulting Engineer's Services shall be provided in accordance with the Terms of Engagement for Consulting Engineering Services provided in the Acceptance Form.
3. In providing the Services, the Consulting Engineer shall exercise the degree of skill, care and diligence normally exercised by Consulting Engineers in similar circumstances.
4. The Client shall provide to the Consulting Engineer briefing and all information concerning the Client's requirement for the Services. Where such requirements are not in the attached letter of proposal, then the rates in the schedule noted in the letter shall apply.
5. All monies payable by the Client to the Consulting Engineer shall be paid within 14 days of date of invoice unless otherwise nominated in the accompanying letter. Monies not paid within that period shall attract interest from the date of invoice until payment, at the Commonwealth Bank overdraft rate (for an amount equivalent to the overdue amount) per month on the outstanding balance.
6. The sum as quoted in the relevant Fee Proposal allows for one design only unless otherwise stated in the Fee Proposal. The fees listed in the proposal document are estimates only. The scope of work required to complete the Services may be subject to change as the Consulting Engineer attains further relevant information. Any additional work required to complete the Services will be agreed in advance and is chargeable in line with the Consulting Engineer's Standard Schedule of Rates.
7. Where Services are performed by the Consulting Engineer pursuant to a Fee Proposal Agreement for a Client, acting on behalf of a third party, liability for any monies payable to the Consulting Engineer pursuant to the Fee Proposal shall be payable by the Client, notwithstanding the terms of any other Agreement that may exist between the Client and any third party.

SYDNEY | ADELAIDE | BAROSSA | DARWIN | MUDGEE

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8. If an appointment and/or engagement which has been prearranged is cancelled within 7 clear days, the Consulting Engineer may charge the fee otherwise payable if such appointment or engagement had taken place.
9. The Consulting Engineer 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 this Agreement. 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.
10. The Consulting Engineer's liability for any loss or damage suffered by the Client as a result of the Consulting Engineer's failure to comply with a guarantee as prescribed by the Competition and Consumer Act 2010 (Cth) is limited to either supplying of the Services again or the cost of having the Services supplied again.
11. Subject to the Competition and Consumer Act 2010 (Cth) and any other applicable legislation, the Consulting Engineer's liability for any loss or damage to revenue, profits, use, contracts, goodwill, or business and any consequential or indirect loss or damaged is suffered by the Client as a result of a breach of this Contract, is excluded.
12. The maximum liability of the Consulting Engineer to the Client arising in connection with the performance or non-performance of the Services, whether under the law of contract, tort or otherwise, shall be the amount of \$300,000.00.
13. Nothing herein contained shall be read or applied so as to purport to exclude or have the effect of excluding the application in relation to the supply of any goods or services pursuant to this Agreement of all or any of the provisions of Competition and Consumer Act 2010 (Cth) or any relevant legislation which by law cannot be excluded, restricted or modified.
14. Liability in respect of the Consulting Engineer's Services whether under law of contract, in tort or otherwise shall cease after the expiration of one year from the date of the invoice of the final amount claimed. The Client shall not be entitled to commence any action or claim whatsoever against the Consulting Engineer (or any employee of the Consulting Engineer) in respect of the Services after that date.



15. The Client agrees to indemnify the Consulting Engineer against any loss or damage whatsoever as a result of representing the Client in subsequent applications/dealings/hearings at any Tribunal or Court proceedings, Insurance Companies or the Builder, provided such loss or damage is a result of:
- a) The Consulting Engineer seeking the Client's instructions in writing and advising the Client of the merits of the options,
  - b) The Client providing its instructions in writing for the Consulting Engineer to undertake a specific course of action,
  - c) The Consulting Engineer suffering the specified loss or damage as a result of acting on those instructions,
  - d) The advice the Consulting Engineer provided to the Client (specified in sub-paragraph 15(a) above) was not negligent or caused by any failure, act or omission on the part of the Consulting Engineer.
16. Copyright in all drawings, reports, specifications, bills of quantity, calculations, certificates, letters, sketches, documentation and other documents provided by the Consulting Engineer in connection with the Services shall remain the property of the Consulting Engineer.
17. Subject to Clause 18, the Client alone shall have a licence to use the documents referred to in Clause 16 for the purpose of completing the Services, but the Client shall not use or make copies of such documents in connection with any work not included in the Services.
18. If the Client is in breach of any obligations to make payment to the Consulting Engineer, the Consulting Engineer may revoke the licence referred to in Clause 17, and the Client shall then cause to be returned to the Consulting Engineer all documents referred to in Clause 16, and all copies thereof.
19. Any dispute between the Client and the Consulting Engineer shall first be the subject of mediation provided that this provision shall not prevent the Consulting Engineer from instituting legal action at any time to recover monies owed by the Client to the Consulting Engineer.
20. The Client may terminate their obligations under this Agreement:
- a) In the event of substantial breach by the Consulting Engineer of its obligations hereunder, which breach has not been remedied within 30 days of written notice from the Client requiring the breach to be remedied, or



- b) Upon giving the Consulting Engineer 60 days written notice of its intention to so do.
21. The Consulting Engineer may suspend or terminate its obligations under the Agreement in the event of:
- a) Monies payable to the Consulting Engineer hereunder being outstanding for more than 30 days,
  - b) Any other substantial breach by the Client of its obligations hereunder, which breach has not been remedied within 30 days of written notice from the Consulting Engineer requiring the breach to be remedied,
  - c) Giving the Client 60 days written notice of their intention to do so.
22. If the Consulting Engineer considers it appropriate, they may with the Client's prior approval, which shall not be unreasonably withheld, engage another Consultant to assist the Consulting Engineer in specialist areas. The Client accepts responsibility for all monies payable to such other Consultant.
23. The Client may not assign or transfer any obligation under this Agreement without the written consent of the Consulting Engineer. Unless stated in writing to the contrary, no assignment or transfer shall release the Client of any obligation under this Agreement.
24. Triaxial Consulting does not specify the type of any external cladding systems and does not check its compliance for fire rating. We rely solely on the Client and/or other Consultants to determine the appropriateness and conformance of any external cladding system.