

Total Group Limited Contractor Terms and Conditions

1. Background

- 1.1. Total Group Limited (TG or Total), is a national service provider, providing reactive and programmed building maintenance services to property owners, tenants and managers.
- 1.2. The Contractor wishes to provide services to the Total Group and by agreeing to provide the Services to Total Group will be bound by the terms and conditions as outlined.
- 1.3. The aim of these terms and conditions is to provide a basis for co-operation between Total Group and the Contractor, ensuring the high standards of Total Group and its reputation is upheld at all times and ensuring the Contractor is promptly paid.

2. Interpretation

- 2.1. **'Total Group'** means Total Group Limited and any related entities.
- 2.2. **'Confidential Information'** means any confidential or proprietary information provided by Total Group to the Contractor which the Total Group regards as confidential including, but not limited to, the following:
 - i. the names, lists or details and any information relating to the business affairs of actual and potential clients, customers and suppliers;
 - ii. information relating to the general business of Total Group, past and present clients, financial reports, financing strategies, models, documentation, software, pricing, sources, ideas, procedures, concepts, inventions and trade secrets;
 - iii. any information which Total Group informs the Contractor is confidential or which, if disclosed, the Contractor knows or ought reasonably to know would be detrimental to Total Group;
 - iv. but excludes any information that is public knowledge or is in the public domain.
- 2.3. **'Contractor'** means the person or entity providing the Services to Total Group pursuant to this agreement.
- 2.4. **'Sub-Contractor'** means the person or entity contracted by the Contractor to provide the Services direct to the Contractor.
- 2.5. **'GST'** means goods and services tax in terms of the Goods and Services Tax Act 1985, at the prevailing rate at the time.
- 2.6. **'Services'** means the works performed and products supplied by the Contractor pursuant to this agreement.

2.7. 'WHS Law' means the *Health & Safety at Work Act, 2015* and Regulations.

3. Term of Agreement

- 3.1. This agreement commences once the Contractor receives the 'welcome' email containing confirmation advice from Total Group or when the first purchase order / quote request is sent to the Contractor. This agreement continues until terminated in accordance with the terms of this agreement.
- 3.2. The Contractor may be required, at the direction of Total Group or its representatives, to undertake make-safe repairs to ensure our customers property is made safe, secure and free from any further damage. Total Group provides 24-hour 7-days a week service to our clients and is required to carry out all types of work including emergency repairs during storm or other scenarios. These repairs are to be attended immediately upon being communicated to you.
- 3.3. The Contractor shall be solely liable to provide its own annual leave, sick leave, long service leave, workers compensation insurance, superannuation and taxation liabilities and Total Group shall have no responsibility whatsoever therefore.
- 3.4. The Contractor will ensure that it arranges and maintains all relevant insurance coverage, including Workers Compensation / Personal Income Protection and Public Liability (not less than \$10,000,000.00 per claim).
- 3.5. The Public Liability insurance will cover the Contractor, its employees, servants, agents and contractors together with the Total Group arising out of or in connection the provision of services pursuant to this agreement for any and/or all liabilities to third parties in respect of property damage and personal injury.
- 3.6. The Contractor will ensure that such insurances will:
 - i. note the interests of any entity of Total Group;
 - ii. contains a severability of interest clause;
 - iii. contains a breach of warranty clause; and
 - iv. contains a 30-day cancellation clause.
- 3.7. The Contractor will arrange and keep any additional insurance coverage as may be required by Total Group.
- 3.8. The Contractor must produce certificates of currency for all insurances required when requested to do so by Total Group.
- 3.9. Immediate suspension of Services will apply if Total Group has not received current insurances when requested and/or upon yearly renewal.

4. General Obligations

- 4.1. If during the provision of work the Contractor is requested by a client to provide any other service, do work, or supply goods the Contractor shall immediately notify Total Group of such request, and shall not provide any such service or supply any such goods without Total Group's prior written approval. Failure to notify Total Group may result in the removal from our contractor panel, will not result in payment for that work and is a fundamental breach of these terms and conditions.

- 4.2. In the provision of any Services, the Contractor shall ensure that any task undertaken is only performed by a person holding current licences and proper qualifications requisite for performing such a task and shall provide evidence of such licences and qualifications to Total Group on request.

- 4.3. The Contractor, and its directors, officers, employees, agents, sub-contractors and any other person engaged by it in the completion of the Services shall agree to jointly and severally release, indemnify and hold Total Group harmless from and against:

- i. all liabilities, claims, damages, losses, suits, verdicts, judgments, costs and expenses which may accrue against or be suffered by Total Group arising out of or in any way connected with the Services provided by the Contractor; and
- ii. consequential losses arising directly or indirectly out of or in connection with this agreement.

- 4.4. The indemnity shall be a continuing indemnity notwithstanding the termination of this agreement.

- 4.5. The Contractor will comply with all laws and bylaws pertaining to the Services.

- 4.6. All equipment required to be used to carry out the Services must be in good working order so as to enable the Services to be completed safely and efficiently and in accordance with all relevant safe work method statements.

- 4.7. The Contractor, and its directors, officers, employees, agents, sub-contractors and any other person engaged by it in the completion of the Services shall in all dealings with clients act in a manner consistent with the standards set in these terms and conditions and so as to ensure maximum client satisfaction.

- 4.8. Any materials and goods used to complete the Services shall be compliant with any relevant Australian/New Zealand Standard and Building Code, fit in all respects for their intended purpose and consistent with the character of the work in which they are used.

- 4.9. All materials used in the provision of the Services shall, unless otherwise agreed in writing, be new and undamaged.

- 4.10. Where a material specified or requested which is necessary to complete the Services, or included in a quotation, is not reasonably obtainable, the Contractor shall seek written approval for any substitution from Total Group prior to using any such substitute.

5. Service Standards and Monitoring

- 5.1. Total Group will measure the performance of the Contractor using Key Performance Indicators developed internally by Total Group for this purpose and available to the Contractor on request.
- 5.2. Key Performance Indicators may be used by Total Group to assess the performance of the Contractor against other contractors over different periods or against established or proposed benchmarks.
- 5.3. Total Group will carry out site and client feedback audits on all jobs. Failure to provide a suitable standard of service and client satisfaction will result in immediate termination of this agreement and may see no further work offered to the Contractor.
- 5.4. The Contractor shall provide the Services in a professional, timely and diligent manner and in accordance with the provisions of these terms and conditions.
- 5.5. The Contractor will always be on time or contact the client to advise any changes to schedule.
- 5.6. Where required drop sheets and other precautionary measures will be used and the customer's home or business is to be left in a neat and tidy manner with all rubbish disposed of and no mess to be left.

6. Code of Conduct

- 6.1. The Contractor shall ensure it, its directors, officers, employees and agents and any sub-contractors, including their directors, officers, employees and agents of the sub-contractor, treat the Total Group' Representatives and clients with courtesy and respect at all times, including but not limited to, the following:
 - i. be suitably attired, wearing a company uniform if one exists;
 - ii. conducts themselves in a manner which does not cause offence to any other person on site or nearby the site;
 - iii. abide by the customer requests where reasonably practicable and generally upholds the good name of Total Group;
 - iv. does not smoke, swear or otherwise engage in activities that could cause discomfort for the home owner and/or occupant and tarnish the reputation of Total Group;
 - v. manage complaints and conflict in a polite, courteous and respectful demeanour;
 - vi. where the complaint relates to the Services or undertaking completed by the Contractor or its representatives, the Contractor must immediately notify Total Group, providing a detailed account of the circumstances surrounding the complaint. Where required the Contractor will

follow any direction from Total Group to resolve this complaint where reasonably practicable;

- vii. must advise Total Group as soon as possible if:
 - there appears to be a customer satisfaction issue or concern; or
 - it is aware of something relating to its business that may adversely impact on customer satisfaction;
- viii. must not do anything that adversely affects the reputation of Total Group or their clientele.

7. Compliance with Laws and Standards

- 7.1. The Contractor shall comply with all applicable laws, including but not limited to, all WHS Laws, the Building Code and Australian/New Zealand Standards pertaining to the Service to be completed. It is the Contractor's responsibility to ensure all directors, officers, employees, agents and their sub-contractors are maintaining compliance with the latest editions of legislation and standards. Failure to comply with these obligations constitutes a fundamental breach of this agreement.

8. Consultation and Cooperation

- 8.1. The Contractor must cooperate and consult with Total Group:
 - i. if it is unsure of what is required under this agreement and Terms and Conditions;
 - ii. on any discrepancies identified on documentation issued to the Contractor;
 - iii. in advance if it is unable to complete the Services or meet any stipulated in the service request or schedule of works or within a reasonable time if no deadline has been specified.

9. Statements and Representations on Behalf of Total Group

- 9.1. The Contractor must not make or purport to make any representations or statements on behalf of Total Group or its clients. Furthermore, nothing in this agreement shall be construed to constitute a partnership or joint venture between the parties or the relationship of principal and agent or of employer and employee.

10. Assistance in Proceedings

- 10.1. If requested by Total Group the Contractor must provide evidence about the services and render all reasonable assistance to Total Group Group. Total Group will pay the required attendee's reasonable out-of-pocket expenses in providing such assistance.

11. Relationship with other industry parties

- 11.1. At the written request of Total Group, the Contractor must disclose any existing or previous relationships with industry peers. The Contractor must also advise Total Group if another industry peer terminates any relationship with it or refuses to deal with the Contractor within seven (7) days of that event.

12. Warranties

12.1. Warranty Guarantee

- i. The Contractor warrants to Total Group and the client, on the date of acceptance of these terms and conditions and on each subsequent engagement, that:
 - the Service will be performed in a proper and professional manner and in accordance with these terms and conditions and the applicable service request, scope of works and schedule of works;
 - all materials supplied will be in good condition and suitable for the purpose for which they are used and that, unless otherwise stated in the service request, will be new;
 - the Service will be done in accordance with, and will comply with, any applicable law;
 - the Service will be done with due diligence and within the time stipulated in the service request and schedule of works, or if no time is stipulated in the service request or schedule of works, within a reasonable period-of-time; (together, the Warranty Guarantee).

12.2. Extension of Manufacturer's Warranty

- i. The Contractor warrants that all materials and parts supplied or installed by their employees and representatives are supplied or installed on the same terms and conditions as the applicable manufacturer's warranty.

12.3. Repair of Breach

- i. If the Contractor breaches any of the warranties in this clause the Contractor will, if required by Total Group, promptly re-perform the Services in a manner that does not breach the warranties at no additional cost to Total Group. This remedy is without prejudice to any other right Total Group may be entitled to whether at law, in equity or otherwise.

12.4. Loss that flows from a breach by the Contractor

- i. In any addition to any other rights that Total Group may have, the Contractor acknowledges and agrees that a breach of these terms and conditions may cause serious damage to Total Group's reputation and may affect the procurement of future earnings. The Contractor agrees that Total Group is justified in seeking restitution for damage to reputation and loss of business resulting from a breach of these terms and conditions by the Contractor.

13. Defective Workmanship and/or Materials

- 13.1. If any Services performed by the Contractor, or parts or materials used by the Contractor or its representatives are defective or do not comply with the warranty guarantee or relevant legislative requirements and standards, or other provisions of these terms and conditions, subject to the customer's preference, Total Group will

provide the Contractor the first option to fix the defect provided:

- i. it is practicable to do so; and
- ii. Total Group believes the Contractor can safely and properly do so within a reasonable time.

13.2. If the Contractor is provided with first option to rectify the defect, the Contractor must rectify the defect:

- i. at its own expense and pay Total Group reasonable costs;
- ii. using a repair or replacement method agreed with Total Group; and
- iii. with minimum inconvenience to the client.

13.3. If:

- i. Total Group has not given the Contractor the first option to rectify the defect; or
- ii. the Contractor does not agree to rectify the defect; or
- iii. Total Group permits the Contractor to rectify the defect but subsequently believes the Contractor cannot safely and properly do so or do so within a reasonable time;

then Total Group may arrange for an alternate contractor to rectify the defect at the original Contractor's expense, and the Contractor must pay Total Group reasonable costs (if any) on Total Group request.

13.4. Upon receipt of a notice outlining defective works the Contractor will contact the client as per the time prescribed for 'emergency works' to arrange inspection and consult with Total Group to arrange correction of the defective works.

13.5. If the rectification of the defective works is not effected within the stipulated timeframe prescribed for 'emergency works', Total Group may, after providing seven (7) days' notice to the Contractor, have the defective works repaired by another person at the Contractor's expense.

14. Use of Sub Contractors

14.1. The Contractor is not authorised to sub-contract any of the Services unless the following has occurred:

- i. the Contractor has obtained the prior written consent of Total Group; and
- ii. the sub-contractor, their directors, officers, employees, agents and representatives are pre-qualified and compliant with Total Group WHS and Contractor Management System and any client-specific on-boarding, induction, training and certification programs.

14.2. If the Contractor does not have any directors, officers, employees, agents, representatives, sub-contractors and/or employees, agents and representatives of the sub-contractor compliant with all of the Total Group requirements including, but not limited to, the WHS and Contractor Management System and/or client specific

programs, the Contractor must contact Total Group prior to commencing any works and it will arrange for a registered AJ Grant Group contractor to attend site to complete these works.

- 14.3. Any deviation from this requirement could immediately result in the Contractor's removal from the Total Group contractor panel, immediate termination of the agreement to provide the Services by the Contractor and may lead to legal action to recover any loss suffered by Total Group.
- 14.4. Contractor's obligations - Subject to other provisions, the Contractor must only provide the Services through sub-contractors who satisfy the requirements set out in clause 14.1 above and who:
 - i. are licensed and comply with all laws and by-laws pertaining to the Services as described in the scope of works;
 - ii. have acknowledged and agreed to the Total Group terms and conditions;
 - iii. have successfully completed the induction into the Total Group WHS & Contractor Management System; and
 - iv. have successfully completed any client-specific induction, training and certification programs.
- 14.5. Failure to comply with any or all of the above will:
 - i. constitute a fundamental breach of this agreement;
 - ii. immediately result in the suspension of work and removal from the Total Group contractor panel;
 - iii. immediate termination of the agreement to provide the Services by the Contractor; and
 - iv. may lead to the commencement of proceedings to recover any loss suffered by Total Group.
- 14.6. Experience and Skill - The Contractor warrants to Total Group and will ensure that all directors, officers, representatives, agents and/or employees used by the sub-contractor will:
 - i. be pre-qualified and compliant with all of the Total Group policies and procedures. For the avoidance of doubt, the sub-contractor cannot rely on another party's licence in performing their duties;
 - ii. be reputable, competent and experienced to provide the services; and
 - iii. be adequately managed and supervised at all times in order to properly perform their duties.
- 14.7. Training - the Contractor will:
 - i. ensure the sub-contractors and/or employees and representatives participate in any Total Group induction and training programs where required;
 - ii. ensure the sub-contractors and/or employees and representatives participate in any client-specific induction and training programs where required.

Failure to comply with this obligation will constitute a fundamental breach of this agreement.

14.8. Liability with respect to Sub-contractors - The Contractor is responsible and liable for:

- i. a sub-contractor's acts and omissions as if they were the acts and omissions of the Contractor; and
- ii. any penalties or fines incurred; and
- iii. any and all arrangements between the Contractor and a sub-contractor, the Contractor and any of its employees or a sub-contractor and any of its employees, including the payment of any amounts due to the sub-contractor or any such employees, any payroll tax or workers' compensation insurance premiums in respect of any such employees and any fines and penalties which may be payable in connection with the non-payment of such amounts. The Contractor, its directors, officers, employees, servants and agents will jointly and severally indemnify Total Group in respect of any liability that may arise out of the conduct of the sub-contractors engaged by the Contractor.

14.9. Obligation to maintain insurance - The Contractor must at all times ensure that any sub-contractor they engage holds insurance policies with a reputable insurer with at least the amount of cover described below:

- i. public liability insurance for an amount of not less than \$10 million per event;
- ii. workers compensation insurance as required by law for its employees engaged in provision of the services; and;
- iii. any other insurance required by the laws of, or recommended by the relevant industry association where the services are provided.

14.10. The Contractor will provide all relevant certificates of insurance obtained by any sub-contractor engaged to provide the Services on request in writing from Total Group.

14.11. Discretion of Total Group – Total Group may at any time and in their absolute and sole discretion request that the Contractor to cease using a sub-contractor to provide the Services and the Contractor must

immediately comply with such request.

15. Priority

- 15.1. The Contractor acknowledges and agrees that it has been appointed to provide the Services in accordance with these terms and conditions on the expectation that when the Services are required, they will be supplied in a prompt and diligent manner in accordance with the reasonable timing requirements of Total Group.
- 15.2. If circumstances arise whereby the Contractor might be prevented from completing the Services in a timely manner in accordance with the reasonable timing requirements due to conflicting demands from other clients, the Contractor will complete the services under this agreement in priority to services provided to other clients.

16. Payment

- 16.1. Nothing in this agreement requires Total Group to make any payment in respect of a service that is not performed in accordance with this agreement.
- 16.2. In the event Total Group has paid for any part or all of the Services that are unsatisfactory, the Contractor irrevocably authorises Total Group to deduct this amount from future payments for any unsatisfactory or incomplete works, including all necessary rectification costs by other sub-contractors. Notification of such will be provided in writing.
- 16.3. The Contractor must submit invoices electronically by emailing accounts@totalgrp.co.nz.
- 16.4. Total Group will not be liable for any payment to the Contractor for any Services completed without the Contractor first obtaining a purchase order number from Total Group and complying with all its obligations under this agreement.
- 16.5. Subject to the clauses above, the Contractor will be paid on the 20th of the month following the date in which the invoice was submitted to Total Group.
- 16.6. The Contractor must keep all receipts and invoices of any materials purchased in the provisions of the Services and, if requested, must produce those receipts and invoices to Total Group.

17. Conflict of Interest

- 17.1. The Contractor shall not, for the duration of this agreement, either directly or indirectly be interested or concerned whether as a principal, partner, contractor, shareholder, director, agent or consultant or otherwise set up or engage in any business where this may interfere, conflict or compete with the interests of Total Group or the provision of the Services.

18. Safe work Methods and Workplace Health and Safety

- 18.1. Total Group is committed to a safe place of work for all its workers, including Contractors, their directors, officers, employees, agents, customers and clients. The bulk of our works are relatively small repair works with minimal time spent onsite. It would be rare for a Total Group supervisor to be onsite at the same time as our contractors. We encourage anyone who has a safety issue to immediately contact the Total

Group office. We have a system for communicating and managing risk to identify issues before the Contractor attends site, via our pre-work safety check.

- 18.2. In order to comply with the Contractor's work, health and safety obligations it must ensure that it and any authorised sub-contractor, as a minimum, does the following:
- i. review Pre-work Safety check when attending site;
 - ii. if you disagree, contact the relevant supervisor to discuss the issue;
 - iii. complete tool box talk with your staff as required prior to commencing work;
 - iv. complete the requisite SWMS as required;
 - v. keep a copy of Pre-work safety check and SWMS for each job and produce them when required;
 - vi. answer the WHS Statement questions on the portal;
 - vii. comply with all WHS requirements;
 - viii. on completion of all works, upload photographic evidence of the installed and/or used safety equipment;
 - ix. if at any stage the Contractor or authorised sub-contractor has any safety concerns – DO NOT continue with the job – contact the project manager immediately.
- 18.3. The Contractor will provide for its directors, officers, employees, sub-contractors and agents a safe environment from which to conduct the Services. A failure to provide the safe environment will constitute a fundamental breach of this agreement.
- 18.4. The Contractor must have a process in place to ensure its directors, officers, employees and agents and any sub-contractors used have relevant licences, training and adhere to SWMS and any other safety requirements.
- 18.5. The Contractor warrants that it can comply with any WHS Law relevant to the Services whilst contracted to Total Group including, but not limited to:
- i. the Contractor has established documentation which details the WHS requirements: processes for identifying, controlling and monitoring of risks;
 - ii. processes for ensuring the relevant training of its employees along with how its employees are provided with information and supervision required to conduct their work safely (with due consideration to any mandatory training that must be provided under WHS Law);
 - iii. processes for the safe purchase and ongoing maintenance and inspection of plant and equipment; and

- iv. processes for ensuring that the contractor adequately verifies the existence of safety systems of its sub-contractor.

- 18.6. The Contractor must immediately inform Total Group upon discovery of any matters that may compromise the health and safety of any person (including representatives of AJ Grant Group and the sub-contractors) or their property.

19. Confidentiality, Privacy and Intellectual Property

- 19.1. The Contractor agrees to keep Confidential Information secure and concealed except to the extent that it is required by law to disclose it.
- 19.2. The Contractor agrees to take all responsibility and necessary precautions to prevent disclosure of that Confidential Information.
- 19.3. The Contractor agrees not to use, copy or record the Confidential Information except as is strictly necessary in the ordinary and proper course of its business.
- 19.4. The Contractor agrees not to disclose the Confidential Information to any third party except after first obtaining the written consent of Total Group and having ensured that the third party agrees to keep the information confidential.
- 19.5. The Contractor will ensure that its directors, officers, employees, agents and any sub-contractors comply with all laws relating to the privacy of information particularly information relating to customers.
- 19.6. The Contractor will ensure that its directors, officers, employees, agents and any sub-contractors comply with all laws relating to the privacy of information particularly information relating to customers.
- 19.7. The duties of the Contractor pursuant to this clause continue following the termination of this agreement.
- 19.8. Any new idea, invention, improvement or work in which copyright subsists, or that could be registered as a patent, trademark, design or any other form of intellectual property protected by law that the Contractor creates, develops or helps develop during the provision of the Services will belong to Total Group.
- 19.9. The Contractor shall, if and whenever required to do so by Total Group at its expense, assist Total Group in applying for patent and other equivalent protection for such discovery, invention, process or improvement referred to above and execute all such instruments and do all things necessary for vesting in Total Group as sole beneficial owner (or to such other person as Total Group may specify) of all intellectual property rights as referred to above.

20. Termination

20.1. This agreement continues until the particular Services for which the Contractor has been engaged are completed or if terminated earlier in accordance with the provisions of this agreement. For the avoidance of doubt, this agreement will only operate for each specific engagement.

20.2. However, this agreement can be terminated on the following basis:

- i. by either party on the provision of four (4) weeks notice in writing;
- ii. by Total Group without notice:
 - if at any time the Contractor or any of its directors, officers, employees or agents, or permitted sub-contractors and their directors, officers, employees and agents:
 - is or becomes in breach of any of the terms and conditions of this agreement;
 - is or becomes incompetent in the performance of the Contractor's duties under this agreement;
 - is or becomes significantly absent or neglectful of the Contractor's duties under this agreement;
 - acts dishonestly in relation to any matters in this agreement or relating to any Services provided;
 - is or becomes involved in a sexual harassment claim;
 - is charged with a criminal offence which, in the reasonable opinion of Total Group, brings disrepute to its name and business;
 - is in breach of the Total Group Code of Conduct;

20.3. Actions on Termination

- If found to be accessing a site without proper authorisation, attempting to work without proper supervision or breaching duty or obligation pursuant to any WHS Law or other Act or regulation.
- i. If this agreement is terminated then the Contractor must do the following:
 - advise Total Group in writing of the current status of all Services being provided;
 - advise Total Group in writing what further Services must be provided to comply with the scope of works and to complete the provision of the Services;
 - render all reasonable assistance to Total Group to complete the scope of works.

- 20.4. On the termination of this agreement Total Group is entitled to deduct from any monies outstanding to the Contractor all reasonable costs of another entity to complete the scope of works and Services.

21. Miscellaneous Provisions

- 21.1. If any GST or any other tax applies to the Services, the Contractor will ensure that the appropriate amount is payable by Total Group to the Contractor and will issue a valid tax invoice.
- 21.2. This agreement is governed by the laws of New Zealand and the courts of New Zealand will have non-exclusive jurisdiction to adjudicate any disputes.
- 21.3. These terms and conditions replace any previous agreement governing the relationship between the Contractor and Total Group.
- 21.4. All previous negotiations, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of this agreement are merged in and superseded by this document.
- 21.5. This document embodies the entire understand and agreement between the parties as to the subject matter of this document.