

Trades Monitor Contractor Terms and Conditions

Trades Monitor means Trades Monitor Aust Pty Ltd (ACN 134 140 051) as trustee for The Trades Monitor Unit Trust (ABN 47 498 711 426)

Last Updated 27th December 2008

1. Terms and Conditions and Privacy Policy

By participating in the contractor management service offered by Trades Monitor, you agree to be bound by all of the following terms and conditions and our Privacy Policy. These terms and conditions and Privacy Policy may be modified and amended by Trades Monitor at anytime without prior notice to you. Trades Monitor will make available the most recent Terms and Conditions and Privacy Policy on its website. Your provision of information to Trades Monitor constitutes acceptance of these terms and conditions and our Privacy Policy. You agree that you will not provide information to Trades Monitor if you do not agree to the terms of this Agreement or our Privacy Policy.

2. Provision of Information

When you provide information to Trades Monitor, you agree to provide true, accurate, current and complete information about yourself and your contracted activities. You will also agree not to impersonate any person or entity, misrepresent any affiliation with another person, entity or association, or conceal your identity from Trades Monitor for any purpose. Trades Monitor will on the request of the contractor provide details of information held or supplied to them relating to their business. Where this information is available to the contractor through the Trades Monitor web site it will be the contractors responsibility to ensure its accuracy at all times.

3. Assumption of Risk

Participating in the Trades Monitor service is solely at your own risk and is subject to all applicable State, Commonwealth, International laws and regulations. While Trades Monitor endeavours to provide a secure and reliable service, please be advised that the confidentiality of any communication or material transmitted cannot be guaranteed. Accordingly, Trades Monitor and its employees, agents, directors, officers, proprietors, partners, representatives, shareholders, servants, attorneys, predecessors, successors, assignors and assignees are not responsible for the security of the information transmitted. You assume sole and complete risk and must make your own determination as to these matters.

Trades Monitor shall use reasonable precautions to maintain the confidentiality of the information you have provided to Trades Monitor and information you have created, input or developed, but you hereby acknowledge and agree that there can be no assurance that any information provided by you, or any communication through E-mail will remain secure and you acknowledge that the information supplied by you will be used for the purpose of assessment of your capability in relation to Occupational Health and Safety requirements and this information will be disclosed to organisations who may seek to use your services, and to Trades Monitor's employees, representatives, officers, agents, and affiliates:

- a) For any purpose related to the conduct of Trades Monitor's business and confirming that your health and safety capability has been assessed by Trades Monitor.
- b) To comply with applicable rules, orders, subpoenas or other legal process or in order to give information to any government agency or official requesting such information, or

c) For any other legitimate business purpose

You release and Indemnify Trades Monitor from and against any improper use of the information so submitted to such organisations.

4. Code of Conduct

You agree not to do any of the following:

- Restrict or inhibit any other authorised user. This includes without limitations: (a) using, or attempting to use, any account without the owner's permission, or (b) obtaining or soliciting another person's personnel information under false pretences.
- Interfere (or attempt to interfere) with the operation of Trades Monitor. Post, store, or transmit any knowingly inaccurate or misleading personal or financial information.
- Post, store or transmit any unlawful, threatening, defamatory, obscene, inflammatory, pornographic, profane or otherwise objectionable (as determined by Trades Monitor) information or material.
- Post, store or transmit any information or material that could constitute or encourage conduct that would be considered a criminal offence, gives rise to civil liability or otherwise violate any law.
- Post, store or transmit any information or software that contains a virus, worm, Trojan horse, or other harmful or disruptive component.
- Post, store, or transmit materials in violation of another party's copyright or other intellectual property rights. You are solely responsible for determining whether any material you post, store or transmit is subject to a third party's rights.
- Use Trades Monitor for any unlawful purpose.
- Modify, adapt, sublicense, translate, resell, retransmit, reverse engineer, decompile, or disassemble any portion Trades Monitor material.

5. Law Enforcement

Any information obtained is subject to review by law enforcement organisations in connection with investigation or prosecution of possible criminal activity. Trades Monitor will also comply with all court orders involving requests for such information.

6. Limitation of Liability

a) The accuracy, completeness, sequence or timeliness of the information cannot be guaranteed. Trades Monitor and its affiliates, agents and organisations to whom the information may be submitted shall not have any responsibility for direct, indirect, consequential, special, or other damages you incur for any reliance by you on information or for the reliability, accuracy, completeness, sequence or timeliness thereof, or for any delays or errors in the transmission or delivery of any part of the information.

b) Except as expressly set forth in this agreement, Trades Monitor and its affiliates and agents hereby expressly disclaim all express and implied warranties, including without limitation, warranties of merchantability, fitness for a particular purpose, and error-free and uninterrupted services. Trades Monitor does not warrant, guarantee, or make any representations or warranties whatsoever, express or implied, or assume any liability to you regarding (i) the use or the results of the use of the services, including without limitation any securing of contracts from organisations to whom the information is submitted, results based on use of the service or information or any delay or loss of use of the service, or (ii) system performance and effects on or damages to software and hardware in connection with any use of the site.

c) In addition to and without limiting the foregoing, Trades Monitor shall not be liable for any harm caused by the transmission, through the site, of a computer virus, or other computer code or programming device that might be used to access, modify, delete, damage, corrupt, deactivate, disable, disrupt, or otherwise impede in any manner the operation of the services or any of your software, hardware, data or property.

d) In addition to and without limiting the foregoing, Trades Monitor makes no representation and assumes no liability regarding the quality, safety, accuracy, or suitability of any information or software found on any other site not under Trades Monitor's control.

e) Trades Monitor and its affiliates and agents shall not be liable for any losses or damages incurred by you related in any way to your use of the service and information submitted by you to organisations. Except as otherwise provided by law, Trades Monitor shall have no liability for losses caused by the negligence, actions or failure to act of the provider or any third party provider, and to the extent permitted by law, neither Trades Monitor nor the provider or any third party provider shall be liable to you for any indirect, special, incidental or consequential damages (regardless of whether such damages are reasonably foreseeable), or for any loss that results from a cause over which Trades Monitor or any other such entity does not have control, including but not limited to failure of electronic or mechanical equipment, unauthorised access, provision by you of incorrect or misleading information, strikes, failures of common carrier or utility systems, severe weather, or other causes commonly known as "Acts of God".

7. Links to Other Sites

The Site may contain links to other websites of third parties (external sites). Trades Monitor is not required to maintain or update the links. Links to external sites should not be construed as any endorsement, approval, recommendation or preference by Trades Monitor of the owners or operators of external sites. Trades Monitor has no control over or will accept no responsibility or liability in respect of the material on any such other website.

8. Termination

Trades Monitor may terminate your account with or without cause at any time. Grounds for termination include, but are not limited to, failure to pay any fees due, lack of client use, or any violation of the Terms of Service. Once your account is terminated, your right to access the Site ceases. Trades Monitor shall have no obligation to maintain any content in your account or to forward any unread or unsent messages to you or any third party.

9. Payment

Payments made are completely non refundable. Your credit card issuer's agreement governs the use of your designated card and you must refer to such agreement (not this agreement) with respect to your rights and liabilities as a cardholder.

Trades Monitor reserves the right to suspend or terminate your account without notice upon the rejection of any credit card charges or if your card issuer (or its agent or affiliate) seeks return of payments previously made to the Site.

10. Trades Monitor Prequalification

You warrant that the information supplied by you will be true and accurate and not subject to any limitation whatsoever.

Trades Monitor prequalification does not remove your statutory responsibilities under occupational health and safety legislation and does not mean you are necessarily in compliance with all relevant legislation.

It is your responsibility to regularly check and confirm the information and status attributed to you by Trades Monitor as part of their Contractor Management Service. Any errors, omissions or exceptions are to be reported to Trades Monitors at the earliest possible time.

On receipt of advice from you that an error, omission or exception has occurred, Trades Monitor will:

- a) Rectify the error, omission or exception at the earliest possible time, or
- b) Advise the contractor why the error, omission or exception cannot be rectified at the earliest possible time.

11. Trades Monitor Logos and Certification - Rules of Use

A company certified by Trades Monitor is licensed to use the Trades Monitor Logo in its corporate literature, and in its marketing and promotional activities. It can be used on letterhead, business cards and in all advertising.

It is important to note use of the Trades Monitor Logo or a certification statement is a privilege extended only to companies whose certification is in good standing. You are only permitted to use or display the mark in association with a valid Trades Monitor certification and not for any other purpose, and according to these Terms & Conditions. Where these conditions are not satisfied, all use or display of the logo/mark must be removed regardless of any notification by Trades Monitor.

A certified organisation is licensed to display the Logo as part of its general corporate literature, and as an element in its marketing and promotions. It can be used on letterhead, business cards and in all advertising.

A certification mark issued within the framework of a Certified Occupational Health & Safety Management certification program:

- MAY BE USED on stationery, literature and publicity material;
- shall NOT be used on a product (including test certificates, reports and drawings), or in any way that may be interpreted as denoting product conformity;
- shall NOT be placed on labels and affixed to the product
- shall NOT be placed on product packaging
- If you are displaying a Trades Monitor Logo on your organization's web site, ensure the mark is only associated specifically with text about your certification.
- Do not make statements suggesting that your organization's management system has been directly registered by the International Organization for Standardization. ISO is a standards development organization; it does not provide certification services.

Black and white or colour photocopies of your certification certificate may be made. Posting an electronic copy of your organization's certificate on your web site is permitted without alteration of content. Additional printed certificates may be purchased from Trades Monitor

12. Intellectual Property Rights

All material, unless otherwise indicated, is protected by law including, but not limited to Australia copyright, trade secret, and trademark law, as well as other State and/or Commonwealth law, and international laws and regulations. Except as expressly provided herein, Trades Monitor does not grant any express or implied right(s). Copyright and other propriety rights, or portions thereof, may be held by individuals and/or entities other than Trades Monitor. Removing or altering the copyright notices on any material is prohibited. Trades Monitor owns the copyright as a collective work and/or compilation, and in the selection, coordination, arrangement, and enhancement of the content. Trades Monitor's and Trades Monitor's logo are proprietary marks of Trades Monitor or their respective owners.

13. Disclosure of Information

The Contractor is expected to notify Trades Monitor immediately of any additional information that may have bearing on the application or Trades Monitor prequalification, including:

- Details of enforcement action, including statutory notices, and or prosecutions.
- Common Law action associated with health and safety.
- Major OHS accidents.
- Changes to insurance policies such as withdrawal or cancellations.
- Any other information that may affect your application or Trades Monitor prequalification.

Trades Monitor reserves the right to modify, adjust or cancel Trades Monitor prequalification upon the receipt of additional information from whatever source. Reasons for the cancellation may be passed onto clients.

14. Warranties

You represent and warrant that you are at least 18 years of age and that you possess legal right and ability to enter into this Agreement. You represent and warrant that all of the information provided by you is true and accurate and correct.

15. Indemnity

You hereby indemnify and hold harmless Trades Monitor (and its directors, officers, employees, control persons, vendors, licensors and agents), and any third party provider from and against any and all claims, losses, liabilities, damages, costs and expenses (including legal fees and costs on a solicitor own client basis) arising out of or related to your breach of your agreements, representations and warranties contained in this Agreement or your use of the service (i) in violation of this Agreement, (ii) in violation of rights of Trades Monitor, and any third party information provider, including copyright, patent, trade secret, trademark, or other intellectual property rights and publicity and privacy rights, or (iii) in violation of any applicable law, rule or regulation, or (iv) your failure to maintain the security of your User Codes as applicable in accordance with this Agreement (iv) your failure to provide true and correct and accurate information upon which any assessment and representation is made by Trades Monitor to organisations that you have satisfactorily complied with Trades Monitor's assessment as to your suitability as a contractor in having met all processes to safely conduct your work. This indemnity shall be binding upon you and your executors, heirs, successors and assigns.

16. Miscellaneous

a) This Agreement represents the complete and exclusive statement of the agreement and understanding between you and Trades Monitor regarding your rights to access and use the service and information contained, and supersedes all prior and contemporaneous agreements and representations regarding such subject matter. Except as herein provided, no waiver, modification or amendment of any provision of this Agreement shall be effective against Trades Monitor unless the same is in writing and signed by an authorised official of Trades Monitor. Trades Monitor may modify these terms and conditions at any time. You agree that your use of the service is subject to the latest Terms and Condition on the Trades Monitor website. If you choose to reject such modification, such rejection shall constitute a termination of this Agreement and of your rights to access and use the service. Should any term or provision of this Agreement be deemed or held to be invalid or unenforceable, the remaining terms and provisions shall continue in full force and effect.

b) Trades Monitor's failure to insist at any time upon strict compliance with any term of this Agreement, or any delay or failure on Trades Monitor's part to exercise any power or right given to Trades Monitor in this Agreement, or a continued course of such conduct on Trades Monitor's part shall at no time operate as a waiver of such power or right, nor shall any single or partial exercise preclude any other future exercise. All rights and remedies given to Trades Monitor in this Agreement are cumulative and not exclusive of any other rights or remedies which Trades Monitor otherwise has at law or equity.

17. Assignment

This Agreement and your rights and obligations hereunder may not be assigned by you without the written permission of Trades Monitor and shall transfer to the benefit of Trades Monitor's successors and assigns whether by merger, consolidation or otherwise. Trades Monitor may assign this Agreement or any of its rights or obligations under this Agreement to a company affiliated with, or a successor to or assignee of, Trades Monitor, or to any other third party.