



**TERMS & CONDITIONS OF SERVICE**

**PARTIES**

1. AMAC Electrical Contractors Pty Ltd ACN 629 842 128 (Supplier)
2. Customer means person or entity engaging the Supplier to provide Services as specified in any Quote, invoice, document or order (Customer)

**INTRODUCTION**

- A. The Customer wishes to engage the Supplier to provide the Services.

**IT IS AGREED**

**1. Schedule**

<b>Services</b>	Electrical & air-conditioning services  <b>plus</b> any other service provided by the Supplier to the Customer
<b>Term</b>	Period of time required to provide the Services as notified by the Supplier to the Customer
<b>Service Fees, Materials &amp; Deposit</b>	As provided for in any Quote

**2. ENGAGEMENT**

- 2.1. The Supplier agrees to perform the Services for the Customer, for the Fees, for the Term set out in in the Schedule, or the date on which this Agreement is terminated in accordance this Agreement, if earlier.
- 2.2. This document and the Quote embody the sole terms and conditions of the Agreement between the Supplier and the Customer.
- 2.3. This Agreement supersedes all other conditions and agreements between the Parties, unless otherwise agreed in writing.
- 2.4. In the absence of an earlier form of acceptance of this Agreement by the Customer, once the Customer pays the Deposit or the Supplier commences provision of the Services, whichever is earlier, the

Customer is deemed to have accepted this Agreement.

- 2.5. The Customer must inspect the Services immediately on delivery and must within 7 days after the date of inspection give written notice to the Supplier, with detailed particulars, of any claim that the Services are not in accordance with the Agreement.
- 2.6. If the Customer fails to give that notice, then to the extent permitted by law the Services must be treated as having been accepted by the Customer and the Customer must pay for the Services under this Agreement.

**3. QUOTE & DEPOSIT**

- 3.1. The Supplier will provide the Customer with a Quote setting out the Fees, Term and Services that will be provided.
- 3.2. Quotes are valid for 30 days.
- 3.3. The Customer must pay the non-refundable Deposit on acceptance of the Quote.
- 3.4. For removal of doubt, payment of the Deposit demonstrates acceptance of this Agreement.
- 3.5. Any obligation of the Supplier to turn off the circuit to a location in compliance with the Electrical Safety Act may be undertaken at any time, without notice to the Customer and any addition work required to repair the circuit, so that it is compliant, will incur additional Fees payable by the Customer.

#### **4. FEES & INVOICING**

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- 4.1. The Customer will pay the Supplier the Fees set out in the Quote (exclusive of GST).
- 4.2. The Customer will reimburse the Supplier for any pre-agreed Materials required to deliver the Services.
- 4.3. The Fees payable to the Supplier to perform the Services may be adjusted from time to time as agreed by the Parties in writing (including by email) on account of changes in relation to the nature of the Services to be performed by the Supplier pursuant to this Agreement.
- 4.4. To receive payment under this clause, the Supplier must provide the Customer with a tax invoice that complies with any invoicing guidelines released by the Australian Taxation Office from time to time that includes the Supplier's ABN, a description of the Services and any receipts for pre-agreed out of pocket expenses.

#### **5. PAYMENT**

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- 5.1. Payment for Services provided by the Supplier to the Customer must be tendered on receipt of the invoice (**Due Date**).
- 5.2. If the Customer defaults in paying the Supplier under this Agreement the Supplier may in its absolute discretion:
  - (i) charge the Customer interest calculated on the portion of the Customer's account overdue (**Debt**) at the REIQ Contract Default Interest Rate (currently 10.36%) as published by the Queensland Law Society from time to time, calculated on the total outstanding Debt, compounded and payable on demand daily from the Due Date until the outstanding Debt is paid in full, up to and including the date payment is received;
  - (ii) enforce its security interest by exercising all or any of its rights under these terms or the PPSA; and
  - (iii) require the Customer to reimburse the Supplier for all collection costs including legal costs incurred by the Supplier calculated on a solicitor and Customer basis as a consequence of the Supplier instructing its solicitor to advise the Supplier in connection with the default and/or to institute such recovery process as the Supplier in its discretion decides.

#### **6. REAL ESTATE AGENCIES**

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- 6.1. Regardless of any other term in this Agreement, the following applies to Customers that are members of a State Real Estate Institute:
  - (i) payment for Services provided by the Supplier to the Customer must be tendered no later than 30 days from the relevant invoice date;
  - (ii) in the event of an emergency callout, the Real Estate Agency authorises the Supplier to do the work as the Customer; and
  - (iii) for Services provided to a tenant of the Real Estate Agency, the Real Estate Agency gives the Supplier consent to contact the tenant directly in relation to providing the Services.

#### **7. INSURANCE & RISK**

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- 7.1. Services supplied by the Supplier to the Customer are at the Customer's risk immediately on delivery to the Customer or into the Customer's custody (whichever is the sooner).
- 7.2. For removal of doubt, the Customer must insure the installed products immediately from installation as they are at the Customer's risk.

#### **8. LOCATION & FACILITIES**

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- 8.1. The Supplier will be granted access to the Customer's premises as necessary for the performance of the Services.
- 8.2. If the Services are to be performed in the Customer's premises, the Customer must ensure the Customer's premises are safe working environments.
- 8.3. The Supplier will notify the Customer of the date and time the Services will be delivered and if the Customer does not arrange access to the premises, the Supplier will charge an additional attendance fee.
- 8.4. The Supplier may offer the Customer the option to have an underground service locator (USL) report completed on the premises before commencing the Services. If the Customer elects not to undertake the USL report any disruption of supply to the premises, liability or cost the result of the disruption and any additional Services required to be provided to the Customer as a

result of disrupting an underground service, will be at the Customer's risk and cost.

- 8.5. The Customer is responsible for moving furniture or items required to be moved to allow the Supplier to provide the Services. If the Supplier needs to clear the workspace the Supplier will charge their ordinary hourly rate to clear the workspace, in addition to the Fees.
- 8.6. The Supplier can request the Customer to provide electronic images of the workspace to make sure it is clear for the Supplier to provide the Services.

## **9. WORKPLACE HEALTH & SAFETY**

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- 9.1. Parties (and its employees or agents) must comply with all applicable workplace health and safety laws and all safety instructions reasonably issued by the other Party from time to time.
- 9.2. The Customer must make sure all pets are restrained while the Supplier provides the Services.
- 9.3. The Supplier must make sure that its employees, agents and subcontractors are adequately supervised at all times while performing the Services.
- 9.4. For removal of doubt, the Customer must ensure the Customer's premises are safe working environments for the Supplier and its employees or agents.
- 9.5. Each Party must make sure that before its employees, agents and subcontractors perform the Services they receive adequate training in security, workplace health and safety, customer service and risk management.

## **10. SUPPLIER'S OBLIGATIONS & WARRANTIES**

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- 10.1. The Supplier warrants and represents that throughout the Term:
- (i) it has legal capacity, power and authority to enter into this Agreement;
  - (ii) there are no legal restrictions preventing it from performing the Services;
  - (iii) it is duly qualified to perform the Services;
  - (iv) in performing the Services it will act with due care and skill;
  - (v) it will re-perform any defective or non-conforming Services;

- (vi) it will comply with any reasonable directions given to it by the Customer from time to time;
- (vii) it will act lawfully and will comply with any applicable licenses, laws, regulations, industry codes of conduct, health and safety requirements and Australian standards in performing the Services;
- (viii) it is not aware of any actual or potential conflict of interest in it providing the Services (unless otherwise agreed in writing with the Customer);
- (ix) it has a valid ABN which has been advised to the Customer; and
- (x) it is registered for GST purposes.

## **11. CUSTOMER'S OBLIGATIONS & WARRANTIES**

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- 11.1. The Customer warrants and represents that throughout the Term:
- (i) it has legal capacity, power and authority to enter into this Agreement;
  - (ii) it will act lawfully and will comply with any applicable licenses, laws, regulations, industry codes of conduct, health and safety requirements and Australian standards in performing the Services;
  - (iii) it will comply with any reasonable requests given to it by the Supplier from time to time to enable the Supplier to provide the Services; and
  - (iv) it has complied with all applicable legislation, awards and industrial instruments in engaging or employing any persons who will work with the Supplier on the Services.
- 11.2. The Customer agrees to read and follow the product manual for any item provided by the Supplier as part of the Services.

## **12. PRIVACY**

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- 12.1. In performing the Services, the Parties agree to comply with the Australian Privacy Principles as set out in the Privacy Act 1988 (Cth) and any other applicable legislation or Privacy Guidelines.

## **13. TERM & TERMINATION**

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- 13.1. Automatic termination: The Agreement will automatically terminate on the Termination Date, unless the Termination Date is changed

- by agreement in writing (including by email) between the Parties.
- 13.2. Termination by agreement: Either Party may terminate this Agreement by giving the other Party 2 week's written notice.
- 13.3. Termination for cancellation, suspension or insolvency: Either Party may terminate this Agreement by giving the other Party 5 Business Day's written notice, if an order is made or a resolution passed for the relevant Party to be deregistered or wound up; a receiver, receiver and manager or an administrator is appointed to all or substantially all of the property of the relevant Party.
- 13.4. Termination for material breach: Subject to the dispute resolution procedures in the Agreement, either Party may at any time terminate this Agreement if in the reasonable opinion of one Party, the other Party (or one of its employees or agents) commits a material breach of this Agreement including but not limited to a breach of the warranties or the requirement to pay Fees and expenses.
- 13.5. Obligations on termination: On termination of this Agreement, the Supplier will:
- (i) immediately stop performing the Services;
  - (ii) immediately stop placing orders for supplies or services required in connection with the performance of the Services;
  - (iii) immediately deliver to the Customer all work in progress;
  - (iv) immediately return to the Customer all property, including Confidential Information and Intellectual Property, in its possession that belongs to the Customer; and
  - (v) pay to the Customer any amount owed in respect of any indemnities provided under this Agreement.
- 13.6. On termination of this Agreement, the Customer will:
- (i) immediately return to the Supplier all property, including Confidential Information and Intellectual Property, in its possession that belongs to the Supplier; and
  - (ii) immediately pay the Supplier the Fees for all Services completed, in part or full, any pre-agreed out of pocket expenses incurred prior to termination,
- and any other amounts owing under the Agreement; and
- (iii) pay to the Supplier any amount owed in respect of any indemnities provided under this Agreement.
- 13.7. The accrued rights, obligations and remedies of the Parties are not affected by the termination of this Agreement.
- 14. CONDITIONS & WARRANTIES**
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- 14.1. All installed products are guaranteed against defects in accordance with the manufacturer's warranty from date of installation and Services are provided with a lifetime workmanship guarantee.
- 14.2. Should the Customer discover any damage or defect on delivery, please contact the Supplier's office immediately and the Supplier will rectify the problem.
- 14.3. In addition, our goods come with guarantees that cannot be excluded under the Australian Consumer Law.
- 14.4. Where the Customer is held to be a Consumer under the Competition and Consumer Act 2010 (Cth):
- (iv) the Supplier's goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Services, the Customer is entitled:
    - a) to cancel their Service Agreement with the Supplier; and
    - b) to a refund for the unused portion, or to compensation for its reduced value;
  - (i) the Customer is also entitled to choose a refund or replacement for major failures with goods;
  - (ii) if a failure with the goods or a Service does not amount to a major failure, the Customer is entitled to have the failure rectified in a reasonable time;
  - (iii) if this is not done the Customer is entitled to a refund for the goods and to cancel the Service Agreement for the service and obtain a refund of any unused portion;
  - (iv) the Customer is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

## **15. LIABILITY & INDEMNITY**

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15.1. To the extent permitted by law the liability, if any, of the Supplier arising from the breach of the conditions or warranties referred to in clause 14 is, at the Supplier's option, limited to and completely discharged:

- (v) in the case of the Services, by either:
  - a) the supply by the Supplier of equivalent Services; or
  - b) the replacement by the Supplier of the Services supplied to the Customer; and
- (vi) in the case of advice, recommendations, information or services, by supplying the advice, recommendations, information or services again.

15.2. The Customer indemnifies the Supplier, regardless of any negligence by the Supplier, against any Loss suffered or incurred by any person arising directly or indirectly as a result of or in connection with the supply of the Services by the Supplier to the Customer unless caused by wilful misconduct on the part of the Supplier or any of its employees or agents acting within the scope of their employment.

15.3. The Customer indemnifies the Supplier, and keeps the Supplier indemnified, from and against any and all Loss that the Supplier incurs or may incur as a result of any breach by the Customer of these terms and conditions.

15.4. The Customer must pay to the Supplier all Losses including but not limited to liabilities, costs and other expenses referred to in clause 15, whether or not the Supplier has paid or satisfied them.

15.5. The obligations under this clause will survive termination of this Agreement.

## **16. COSTS & EXPENSES**

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16.1. Each Party must pay its own costs and expenses (including legal costs and expenses) in relation to the negotiation, preparation and execution of this Agreement and any variation or replacement of this Agreement.

## **17. GST**

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17.1. If GST is payable on any supply made under this Agreement, the payer must pay an amount equal to the GST payable on the supply. That amount must be paid at the

same time that the consideration is to be provided under this Agreement and must be paid in addition to the consideration expressed elsewhere in this Agreement. On receiving that amount from payer, the recipient must provide the payer with a tax invoice for the supply.

17.2. If an adjustment event arises in respect of any supply made under this Agreement, a corresponding adjustment must be made between the recipient and the payer in respect of any amount paid to the recipient by the payer under this clause, and any payments to give effect to the adjustment must be made.

17.3. If the payer is required under this Agreement to pay for or reimburse an expense or outgoing of the recipient, or is required to make a payment under an indemnity in respect of an expense or outgoing of the recipient, the amount to be paid by the payer is the sum of:

- (i) the amount of the expense or outgoing less any input tax credit in respect of that expense or outgoing that the recipient is entitled to; and
- (ii) if the recipient's recovery from the payer is in respect of a taxable supply, the amount equal to the GST payable by the recipient in respect of that recovery.

17.4. The terms "adjustment event", "consideration", "GST", "input tax credit", "supply", "taxable supply" and "tax invoice" each has the meaning which it is given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

## **18. AMENDMENT**

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18.1. This Agreement may only be amended by written agreement (including email) executed by all the Parties.

## **19. ACT OF GOD (FORCE MAJEURE)**

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19.1. Neither party is liable for any breach of, or failure to perform, its obligations under this Agreement to the extent that the breach or non-performance results from a Force Majeure Event provided that it promptly notifies the other party (with appropriate details) (**Force Majeure Notice**).

19.2. On service of a Force Majeure Notice:

- (vii) the affected party must take all reasonable steps to work around or reduce the effects of the Force Majeure Event; and
  - (viii) the affected obligations are suspended for so long as they are affected by the Force Majeure Event.
- 19.3. The affected party will not be responsible for any loss or expense suffered or incurred by any other party as a result of, and to the extent that, the affected party is unable to perform, or is delayed in performing, its obligations because of the Force Majeure Event.
- 19.4. Within 10 Business Days, the parties will take all reasonable steps to determine the estimate length of time that the Force Majeure Event will continue and how to proceed during that time.
- 19.5. If a Force Majeure Event continues for more than 6 months, either party may terminate this Agreement with 15 Business Days prior written notice to the other party.
- 20. NOTICES**
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- 20.1. A notice or other communication connected with these terms and conditions (**Notice**) has no legal effect unless it is in writing.
- 21. GOVERNING LAW**
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- 21.1. The law of Queensland governs these terms and conditions.
- 21.2. The parties submit to the non-exclusive jurisdiction of the Courts of Queensland and of the Commonwealth of Australia.
- 22. DEFINITIONS**
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- 22.1. In this Agreement:
- 22.2. **Agreement** means the agreement between the Customer and the Supplier for or in relation to the supply of the Services;
- 22.3. **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;
- 22.4. **Customer** means the person or entity engaging the Supplier to provide the Services as specified in any Quote, invoice, document or order, and if there is more than one Customer, is a reference to each Customer jointly and severally, including their respective successors and permitted assigns, lessees, employees and/or agents;
- 22.5. **Deposit** means the deposit amount referred to in any Quote or request by the Supplier;
- 22.6. **Force Majeure** means an event beyond the reasonable control of an affected party. Including: acts of God, natural disasters including but not limited to fire, flood, cyclone, tornado, war, riot, insurrection, vandalism or sabotage, public health emergencies, disease, epidemics and pandemics (including events related to the SARS-CoV-2 Virus and COVID-19 disease), strike, lockout, ban, limitation of work or other industrial disturbance and law, direction, change in law, rule or regulation of any government or governmental agency and executive or administrative order or act of general or particular application;
- 22.7. **Loss** means any liability, cost, expense, loss or damage;
- 22.8. **Materials** mean products required by the Supplier to provide the Services, including but not limited to, air-conditioning units, appliances and fittings;
- 22.9. **PPSA** means the *Personal Property Securities Act 2009* as amended;
- 22.10. **PPS Register** means the personal property securities registered established under the PPSA;
- 22.11. **Quote** means the proposal and quote provided by the Supplier to the Customer outlining the Services, Service Fees, Deposit and other details of the Services to be provided;
- 22.12. **Related Body Corporate, Subsidiary and Holding Company** each has the meaning given in section 9 of the Corporations Act 2001 (Cth);
- 22.13. **Security Interest** has the meaning given under the PPSA;
- 22.14. **Services** means the services referred to in the Schedule plus all goods and services supplied by the Supplier to the Customer at the Customer's request from time to time (where the context permits the terms goods and services will be interchangeable for the other); and
- 22.15. **Supplier** means **AMAC Electrical Contractors Pty Ltd ACN 629 842 128** and any related body corporate of the Supplier within the meaning of section 50 of the *Corporations Act 2001* as amended.

