

# AIR CONDITIONING BRISBANE'S TERMS AND CONDITIONS OF TRADE - INVOICE

## 1 INTRODUCTION

### 1.1 Application of these Terms and Conditions

The Customer agrees that prior to placing an order with the Supplier, the Customer has read and agreed to the terms and conditions as set out hereunder. For the purposes of this agreement, "Quote" is the Work Authorisation/Quote form, "Supplier" is EIM BRISBANE A.B.N 43 989 977 936 and the "Customer" is the applicant named on the Quote. In this Agreement "Goods" means electrical and air conditioning and associate services.

## 2 QUOTES

### 2.1 Supplier Supply Quote – The Supplier shall give the Customer a Quote specifying:

- (a) The work required to be done in order to fulfil the Customer's instructions; and
- (b) An estimate of the Supplier's charge for the performance of such work.

### 2.2 Acceptance by the Customer – Where the Supplier has given the Customer a Quote, the Supplier need not commence work until the Quote has been accepted by the customer. The Customer shall accept the Quote by instructing (in writing) the Supplier to commence the work by:

- (a) Signing and returning a true copy of the Quote and/or;
- (b) Supply a purchase order number in writing.

Quote are valid for thirty (30) days only, unless an extension has been authorised by the Supplier. In acceptance of the Quote, the Customer warrants that:

- (c) It has not relied on any representation by the Supplier and its employees and agents other than as supplied in writing in the Quote;
- (d) The quote will constitute acceptance by the Customer of these Terms and Conditions.

### 2.3 Variations to Initial Quote – The Customer shall indemnify the Supplier from any additional cost incurred by the Supplier, should the Customer increase the scope of the Goods and/or services to be provided by the Supplier.

## 3 INSTALLATION

### 3.1 The scope of work covered by the installation is limited to that specifically detailed in the Supplier's written Quote. It is the responsibility of the Customer to obtain the necessary approval for the installation from Council or other statutory bodies.

### 3.2 If requested, the Supplier will provide the Customer with noise level specifications for the Goods that are to be provided.

### 3.3 Quotes will be based on the Customer's current electrical circuit being suitable for the job. If on further investigation an upgrade of the Customer's power supply is required, the supplier may require a separate Quote for the additional work requested.

## 4 PAYMENT

### 4.1 Time for Payment – The Customer must pay the Supplier the total amount set out in the invoice within fourteen (14) days from the date of the invoice. The Supplier reserves the right to alter the time of payment at their discretion.

### 4.2 Interest – The Supplier may charge interest at 2.5% per calendar month on amounts not paid within the time specified in clause 4.1.

### 4.3 Deposit – The Supplier may require a deposit from the Customer, and if a deposit is so requested by the Supplier the Customer acknowledges the Supplier is under no obligation to undertake any works as requested by the Customer, until the Deposit is received by the Supplier in full and when all details pertaining to the Quote are finalised. In the event of default as to payment owing to the Supplier on the part of the Customer, the Supplier shall be entitled to forfeit the deposit and claim for the balance owing on the quote and for any other loss suffered by the Supplier by way of any remedy available to it as provided in these Terms and Conditions or at law or in equity generally.

### 4.4 Damages – The Customer must pay to the Supplier any costs, expenses or losses incurred by the Supplier as a result of the Customer's failure to pay the Supplier all sums outstanding as owed by the Customer to the Supplier including without limiting the generality of the forgoing any debt collection and legal costs incurred in enforcing payment on a Solicitor and own client basis.

## 5 RISK

### 5.1 The risk in the Goods shall pass to the Customer upon delivery/installation of the Goods to the Customer or its agent or to a third party nominated by the Customer.

## 6 RETENTION OF TITLE

### 6.1 Title – Notwithstanding the delivery of the Goods or their installation, title in any particular Goods shall remain with the Supplier until the Customer has paid and discharged any and all monies owing pursuant to any invoice issued by the Supplier for the Goods, including all application GST and other taxes, levies and duties.

### 6.2 Repossession – The Customer hereby irrevocably grants to the Supplier the right, at its sole discretion, to remove or repossess any Goods from the Customer, which have not been paid for in accordance with the terms and conditions herein and commence proceedings to recover the balance of any monies owing the Supplier by the Customer.

## 7 WARRANTY

### 7.1 The Supplier shall endeavour to carry out and complete the works by the completion date, to acceptance trade standards and in compliance with the terms and provisions of the Quote.

### 7.2 The Supplier does not warrant the quality or the performance of any electrical Goods supplied and/or installed by the Supplier or licensed contractor.

It is the Customer's responsibility to establish the warranty relationship with the manufacturer by ensuring that warranty cards or any other registration requirements of the manufacturer of any electrical goods supplied or installed by the Supplier or licensed contractor are completed with.

### 7.3 The Supplier reserves the right to make null and void the warranty should the Goods be modified, altered, damaged or put to any undue stress other than in the way the Goods were designed to perform.

### 7.4 In respect of all claims the Supplier shall not be liable to repair faulty Goods that are subsequently found not to be faulty but rather the Customer has not operated the Goods according to the manufacturer's instructions.

### 7.5 Warranties shall not be provided on installations of second hand goods, unless specified in the Supplier's Quote.

## 8 DEFECTS/RETURN OF GOODS

### 8.1 The Customer shall inspect the Goods on delivery and shall within seven (7) days of delivery notify the Supplier of any alleged shortage in quantity, damage or failure to comply with the description. The Customer shall afford the Supplier an opportunity to inspect the Goods within a reasonable time following delivery if the Customer believes the Goods are defective in any way. If the Customer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the terms and conditions and free from any damage.

## 9 LIABILITY

### 9.1 Non-excludable Rights – The parties acknowledge that, under applicable State and Commonwealth law, certain conditions and warranties may be implied in these Terms and Conditions and there are rights and remedies conferred on the Customer in relation to the provision of the Goods or of services which cannot be excluded, restricted or modified by the Agreement ("Non-excludable Rights").

### 9.2 Disclaimer of Liability – The Supplier disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the Customer, by statute, the common law, equity, trade, customer or usage or otherwise and all those conditions and warranties and all those rights and remedies are excluded other than any Non-excludable rights. To the extent permitted by law, the liability of the Supplier for a breach of a Non-Excludable Right is limited, at the Supplier's option, to the supplying of the Goods and/or any services again or payment of the cost of having the Goods and/or services supplied again.

### 9.3 Indirect Losses – Notwithstanding any other provisions of these Terms and Conditions, the Supplier is in no circumstances (whatever the cause) liable in contract, tort including without limitation, negligence or breach of statutory duty or otherwise to compensation the customer for:

- (a) Any increased costs or expenses;
- (b) Any loss of profit, revenue, business, contracts or anticipated savings;
- (c) Any loss or expense resulting from a claim by a third party; or
- (d) Any special, indirect or consequential loss or damage of any nature whatsoever caused by the Supplier's failure to complete or delay in completing the work or to install the Goods.

### 9.4 Supplier's Indemnity –

- (a) The customer shall ensure they or their representative remains on site during the performance of the Supplier's work;
- (b) The Customer shall sign off that the work has been completed in accordance with the Quote;
- (c) The Customer shall indemnify the Supplier from any claims or charges relating to the damage and/or loss of property from the job site if the Customer has not complied with the conditions specified in clause 9.4(a)

**9.5** The Customer shall indemnify the Supplier from any noise complaints from neighbours should the Customer instruct the Supplier to position the Goods in a location that later proves to create unacceptable levels of noise to neighbours.

**9.6** The Customer shall indemnify the Supplier from any remedial work should the Goods be damaged in any way whatsoever caused by pests or rodents.

## **10 PRIVACY**

**10.1** The Customer hereby authorises the Supplier to collect, retain, record, use and disclose personal information about the Customer, in accordance with the *Privacy Act 1988* to persons and/or legal entities who are a Solicitor or any other professional consultant engaged by the Supplier, a Debt Collector, Credit Reference Organisation and/or any other individual or organisation which maintains credit references and/or default listings.

**10.2** The Customer also authorises the Supplier to make enquiries with respect to the Customer's credit worthiness, to exchange information with other Credit Providers in respect to previous defaults of the Customer and to notify other Credit Providers of a default by the Customer.

## **11 GENERAL MATTERS**

**11.1 Severability** – Any provision in these Terms and Conditions which is invalid or unenforceable in any jurisdiction must be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable. If that provision cannot be read down then it is capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of these Terms and Conditions or affecting the validity or enforceability of that provision in any other jurisdiction.