

**TERMS AND CONDITIONS****1. ACCEPTANCE**

1.1 **Parties:** These Terms are between SUMMIT GLAZING SOLUTIONS PTY LTD ACN: 675 364 931, its successors and assignees (referred to as “we” and “us”) and you, the person, organisation or entity described in the Quote (referred to as “you”). These Terms apply to all Services provided by us to you.

**Acceptance:** You have requested the Services set out in the Quote. You accept these Terms by:

- (a) signing and returning this Agreement;
- (b) accepting this Agreement online (**including through any electronic quoting or job management platform used by us**),

or where the QBCC Act does not consider this a written contract for Domestic Building Works over \$3300, you accept these Terms by:

- (a) signing and returning the Quote;
- (b) confirming by email or verbally that you accept the Quote;
- (c) accepting the Quote online (including through any electronic quoting or job management platform used by us);
- (d) allowing us to proceed with the Services; or
- (e) making part or full payment for the Services.

1.2 **You agree that these Terms form the agreement under which we will supply the Services to you. Please read these Terms carefully.** Please contact us if you have any questions. Purchasing or accepting Services from us indicates that you have had sufficient opportunity to read these Terms and contact us if needed, that you have read, accepted and will comply with these Terms.

1.3 **Deposit:** If the Quote indicates that we require a Deposit, we will not commence performing the Services until you have paid the Deposit or the first instalment of our Fees.

1.4 **Cancellation:** If you withdraw from this Agreement under the cooling-off provisions set out in clause 7.1(b), we are entitled to retain \$100 plus any ‘out-of-pocket’ expenses reasonably incurred by us before the withdrawal. If no moneys have yet been paid, this amount will be payable by you within 7 days of receipt of an invoice for that amount.

1.5 **Material Costs:** To the extent permitted by law, if you cancel the Services and we have already ordered materials specific to the Services (including custom glass or glazing products) that must be returned, you will also be required to pay for any return or re-stocking costs on an indemnity basis, payable by you within 7 days of receipt of an invoice for that amount; or if we have already ordered materials specific to the Services (including custom glass or glazing products) that cannot be returned or re-used by us, you will be required to pay for the material costs on an indemnity basis, payable by you within 7 days of receipt of an invoice for that amount. You can collect the materials from us once the invoice is paid in full.

**2. SERVICES**

- 2.1 We agree to perform the Services with due care and skill.
  - 2.2 We reserve the right to refuse any request that we deem inappropriate, unreasonable or illegal.
  - 2.3 We may provide the Services to you using our employees, contractors and third party providers, and they are included in these Terms.
  - 2.4 When you engage third parties that are neither our employees nor contractors we have directly appointed, their services or products fall under your oversight. We bear no liability for the outcomes or quality of the services or products provided by these independent third parties.
  - 2.5 **Timeframe:** Any period of time allowed for completion of Services is an estimate only and is subject to change. To the extent permitted by law, we will not be liable for any delays. Both Parties must take all reasonable steps to minimise any delay to the Services.
  - 2.6 **Cleaning Up:** On completion of the Services and full payment of the Fees, we will use reasonable endeavours to dispose of all rubbish, excavated material (if included in the Quote), removed glass, frames, fixtures, demolished or dismantled structures and surplus material relating to the Services. All demolished, dismantled and surplus material will be our property unless otherwise specified in the Quote. We will not be responsible for cleaning up after any third parties.
- 3. PRICE, INVOICING AND PAYMENT**
- 3.1 You agree to pay us the amounts set out in our Quote, including any Deposit required. All amounts are stated in Australian dollars. All amounts exclude Australian GST (where applicable). Payment may be made by way of credit card or other payment methods specified in the Quote or online acceptance platform used by us when purchasing our Services.
  - 3.2 You agree to pay our invoices by the payment date set out on the invoice. If you do not pay by the payment date (including any other services we have provided to you and invoiced you for), we may cease to provide the Services to you until we receive payment.
  - 3.3 We may charge interest at a rate equal to the Reserve Bank of Australia’s cash rate from time to time plus 8% per annum, calculated daily and compounding monthly, on any amounts unpaid after the payment date.
  - 3.4 If invoices are unpaid after the payment date, we reserve the right to take steps to recover any outstanding professional fees and outlays owing to us. In the event of non-payment, we have the right to engage debt collection services for the collection of unpaid debts, the right to commence legal proceedings for any outstanding amounts owed to us and the right to take any other adverse action against you as we consider appropriate. If any action is required to recover amounts owing to us (including without limitation issuing and receiving any correspondence, commencing court proceedings, taking enforcement action and so on), you acknowledge and agree that you are liable for and must pay all costs including without limitation debt collection, commission, charges, costs and any out-of-

pocket expenses (including all legal costs and legal fees on an indemnity basis and all fees charged by counsel). You agree to indemnify us against any costs we may incur in recovering payment of any unpaid invoices.

3.5 We reserve the right to report bad debts to independent credit data agencies.

3.6 If the Quote states that the Fees and Expenses are an estimate only, you acknowledge that the final Fees and Expenses may be more or less than the estimated amounts. We will inform you of any material variation to Fees and/or Expenses no later than 7 days after it has become apparent that there is a material variation.

3.7 If applicable, you agree to pay the Call Out Fees.

#### 4. YOUR APPROVALS

4.1 Where we provide you with any approval item, you must notify us in writing whether you do or do not accept the completed approval item by the due date provided to you.

4.2 If we do not receive a response from you by the due date set out on the approval item, we will follow up with you directly to seek confirmation of acceptance. If after 5 Business Days, we still do not receive a response, you will be deemed to have accepted the approval item.

4.3 Acceptance of the approval item, whether expressly or deemed after the 5 Business Days follow-up time frame, signifies that the item is complete and no further changes are required.

4.4 Where we are unable to proceed to the next stage of the Services without your express approval, and if the follow-up time frame has elapsed without your response, we may charge additional fees to cover the costs of rescheduling the Services, staff, or facilitating the continuance of the Services due to the delay. These potential additional fees will be communicated to you during the follow-up before they are incurred.

#### 5. VARIATIONS

5.1 Unless the Quote states that the Fees and any Expenses are an estimate only, the Fee and Services can only be varied by written agreement between us, including by email.

5.2 We may at any time, in writing, inform you of the need for us to perform a Variation.

5.3 If you request a Variation to the Services, we have discretion as to whether we make the Variation.

5.4 Variations will not invalidate these Terms or be regarded as a repudiation of these Terms by us.

5.5 If in our reasonable opinion a Variation requires additional time to perform the Services, then we will amend the term of this Agreement after consultation with you.

5.6 If we need to charge an additional fee for a Variation (**Additional Fee**), then we will provide a written quote for the Additional Fee or notify you of the need to charge at our Hourly Rates prior to commencing performance of the Variation. If:

(a) you accept the quote for the Additional Fee or agree to our Hourly Rates being charged then these Terms are amended to incorporate the Variation but otherwise remain the same; or

(b) you do not accept the quote for the Additional Fee or agree to our Hourly Rates being charged where we informed you of the need for us to perform a Variation then we may in our discretion terminate these Terms immediately.

5.7 If we are unable to accommodate a Variation requested by you, we may consult with you to find a feasible adjustment. Should a mutually agreeable solution not be reached, we reserve the right to invoice for Services performed to date and terminate these Terms.

#### 6. YOUR OBLIGATIONS AND WARRANTIES

6.1 You warrant that:

(a) there are no legal restrictions preventing you from agreeing to these Terms;

(b) you will cooperate with us, and provide us with information that is reasonably necessary to enable us to perform the Services as requested from time to time, in a timely manner, **including providing accurate measurements, access to the Site and any relevant plans or specifications where applicable;**

(c) the information you provide to us is true, correct and complete;

(d) the party supplying the plans and specifications warrants that it has prepared them with reasonable skill and care and that the use of the plans and specifications for the Services will not infringe any rights of any third party;

(e) you will at all times comply with our Requirements;

(f) you will not infringe any third party rights in working with us and receiving the Services;

(g) before attempting to resolve any issues yourself or using a third party, you will inform us if you have reasonable concerns relating to our provision of Services under these Terms, with the aim that the Parties will use all reasonable efforts to resolve your concerns;

(h) you are responsible for obtaining any consents, licences and permissions from other parties necessary for the Services to be provided, at your cost, and for providing us with the necessary consents, licences and permissions;

(i) if the Services are to be performed on a property, you are authorised to occupy the premises and obtain the Services;

(j) if the Services are to be performed on a property, that at all times the property is safe and that all facilities provided by you for the purposes of enabling the Services to be performed are also safe, including restraining any pets;

(k) we will have free and unimpeded access to the place in which the Services are to take place and that you will do all things to ensure that we are not delayed by matters within your control;

(l) we have the right to impose stand down charges and recover additional costs incurred where work is delayed by reason of matters not within our control and where we are unable to reasonably reschedule services; and

- (m) you will not employ, canvass, solicit, entice, induce or attempt to employ our employees or contractors.
- 7. QBCC Act**
- 7.1 To the extent that the QBCC Act considers the Services being provided to you to be Domestic Building Works over \$3,300:
- (a) Queensland Home Warranty Scheme: Under the QBCC Act, we are required to collect the premium from you and pay it to the QBCC within 10 business days after the date the agreement was entered into or before the Services commence (whichever is earlier).
- (b) **Cooling Off:** If you are entitled under the QBCC Act to withdraw under the cooling-off provisions you must, before the expiry of the cooling-off period, provide to us a written and signed withdrawal notice stating that you are withdrawing from these Terms under the cooling-off provisions in section 35 of Schedule 1B of the QBCC Act.
- (c) **Extensions of Time:** We may claim an extension to the date for practical completion, or an extension to the construction period given in the Quote, if:
- (i) the need for an extension of time relates to a delay recognised in section 42(1)(a) of Schedule 1B. The recognised reasons for the delay causing the need for an extension of time are:
- (A) a delay not reasonably foreseeable and beyond the reasonable control of the contractor; or
- (B) a delay caused by the owner; or
- (C) a delay caused by a variation of the contract complying with section 40 of Schedule 1B and agreed by the owner in writing; and
- (ii) the claim is presented to the owner in writing within 10 business days of the contractor becoming aware of the cause and extent of the delay or when they reasonably ought to have become aware of the cause and extent of the delay; and
- (iii) the owner approves the claim in writing.
- 7.2 To the extent that the QBCC Act considers the Services being provided to you to be Domestic Building Works over \$20,000, the Parties must enter into a separate contract for Domestic Building Work over \$20,000 that complies with the QBCC Act.
- 8. WORK HEALTH & SAFETY**
- 8.1 You agree and acknowledge that:
- (a) Whilst works are being carried out the property is considered a work site and therefore must comply with all relevant legislation and you must comply with the following conditions:
- (i) advise us of the approximate age of the property so that we can ascertain potential risks;
- (ii) disclose the presence of asbestos, where known by you, within the work site prior to the commencement of works;
- (iii) ensure all work areas are free of potential hazard to us and any of our representatives.
- (b) Any representative of ours can refuse to complete the Services if they reasonably believe that the working environment is in breach of our company policy and/or relevant legislation.
- 9. OUR INTELLECTUAL PROPERTY**
- 9.1 We own the intellectual property rights in:
- (a) our pre-existing Intellectual Property, including but not limited to copyright which subsists in all creative and literary works incorporated into our pre-existing Intellectual Property; and
- (b) Intellectual Property that we create during the course of the Services, including but not limited to copyright which subsists in all creative and literary works in all Intellectual Property that we create during the course of the Services; unless we assign or transfer this to you. This Intellectual Property is protected by Australian and international laws.
- 9.2 Nothing in these Terms constitutes an assignment or transfer of our Intellectual Property rights, or a right to use our Intellectual Property, whether registered or unregistered, except as stated in these Terms or with our written permission.
- 9.3 You must not breach our intellectual property rights by, including but not limited to:
- (a) altering or modifying our Intellectual Property;
- (b) creating derivative works from the Intellectual Property; or
- (c) using our Intellectual Property for commercial purposes such as on-sale to third parties.
- 9.4 This clause will survive the termination of these Terms.
- 10. YOUR INTELLECTUAL PROPERTY AND MORAL RIGHTS**
- 10.1 You agree to provide information including any Intellectual Property to us to enable us to provide the Services. You:
- (a) warrant that you have all necessary rights to provide the Intellectual Property to us;
- (b) grant us a perpetual, non-exclusive, royalty-free, irrevocable, worldwide and transferable licence to use the Intellectual Property in any way we require to provide the Services to you; and
- (c) consent to any act or omission which would otherwise constitute an infringement of your Moral Rights.
- 10.2 If you (or any employee or agent) have Moral Rights in any Intellectual Property that you provide to us, you:
- (a) irrevocably consent to any amendment of the Intellectual Property for the purposes of us providing Services to you and to our using or applying the Intellectual Property for the purposes of providing Services to you without any attribution of authorship;

- (b) agree that your consent extends to acts and omissions of any of our licensees and successors in title; and
- (c) agree that your consent is a genuine consent under the *Copyright Act 1968* (Cth) and has not been induced by duress or any false or misleading statements by us.
- 10.3 This clause will survive the termination of these Terms.
- 11. CONFIDENTIAL INFORMATION**
- 11.1 We, including our employees and contractors, agree not to disclose your Confidential Information to any third party (other than where necessary, to third party suppliers, or as required by law); to use all reasonable endeavours to protect your Confidential Information from any unauthorised disclosure; and only to use your Confidential Information for the purpose for which it was disclosed by you to us, and not for any other purpose.
- 11.2 You, including your employees and contractors, agree not to disclose our Confidential Information to any third party; to use all reasonable endeavours to protect our Confidential Information from any unauthorised disclosure; and only to use our Confidential Information for the purpose for which it was disclosed or provided by us to you, to provide better quality services to you and not for any other purpose.
- 11.3 These obligations do not apply to Confidential Information that:
- is authorised to be disclosed;
  - is in the public domain and/or is no longer confidential, except as a result of a breach of these Terms;
  - is received from a third party, except where there has been a breach of confidence; or
  - must be disclosed by law or by a regulatory authority including under subpoena.
- 11.4 This clause will survive the termination of these Terms.
- 12. FEEDBACK AND DISPUTE RESOLUTION**
- 12.1 Your feedback is important to us. We seek to resolve your concerns quickly and effectively. If you have any feedback or questions about the Services, please contact us.
- 12.2 If there is a dispute between the Parties in relation to these Terms, in the first instance the Parties agree to the following dispute resolution procedure:
- The complaining Party must tell the other Party in writing, the nature of the dispute, what outcome the complaining Party wants and what action the complaining Party thinks will settle the dispute. The Parties agree to meet in good faith to seek to resolve the dispute by agreement between them at an initial meeting.
  - If the Parties cannot agree how to resolve the dispute at that initial meeting, any Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, the complaining Party will ask the Law Society of Queensland to appoint a mediator. The mediator will decide the time and place for mediation. The Parties must attend the mediation in good faith, to seek to resolve the dispute and will be equally responsible for the costs of the mediator.
- 12.3 Any attempts made by the Parties to resolve a dispute pursuant to this clause are without prejudice to other rights or entitlements of the Parties under these Terms, by law or in equity.
- 13. RISK**
- 13.1 Risk of damage to or loss of the goods passes to you on delivery to your premises or the Site and you must insure the goods on or before delivery.
- 13.2 If any of the goods are damaged, lost or destroyed following delivery but prior to title passing to you, we are entitled to receive all insurance proceeds payable for the goods. The production of these Terms by us is sufficient evidence of our rights to receive the insurance proceeds without the need for any person dealing with us to make further enquiries.
- 13.3 If you request that we deliver the goods to an unattended location or leave goods at the Site prior to installation, then such goods shall be left at your sole risk.
- 13.4 You acknowledge that goods supplied (including glass and glazing products) may:
- fade or change colour over time;
  - expand, contract or distort as a result of exposure to heat, cold, weather;
  - mark or stain if exposed to certain substances; and
  - be damaged or disfigured by impact or scratching.
- 14. WARRANTIES**
- 14.1 We may provide you with a warranty for our workmanship for the number of years set out in the Quote from the date of practical completion (Our Warranty).
- 14.2 Our Warranty shall only be valid on the Services as carried out by us. Using a third party or tampering/modifying our work will void all warranty.
- 14.3 Building movement, structural movement of the property or impact damage may also void our warranty.
- 14.4 If you claim on Our Warranty you must provide the original invoice for proof of Services.
- 14.5 For products not manufactured by us, the warranty shall be the warranty provided by the manufacturer. To the extent permitted by law, we shall be under no liability whatsoever in respect of products not manufactured by us.
- 14.6 We take no responsibility for materials supplied by you.
- 14.7 Our Warranty is only valid where you have complied with these Terms.
- 14.8 Our Services come with guarantees that cannot be excluded under Australian Consumer Law. For major failures with the Services, you are entitled to:
- cancel these Terms with us; and
  - a refund for the unused portion, or reimbursement for its reduced value.
- You are also entitled to be reimbursed for any other reasonably foreseeable loss or damage.
- 14.9 If the failure does not amount to a major failure, you are entitled to have problems with the Services rectified in a reasonable time and, if this is not done, to cancel the

Terms and obtain a refund for the unused portion of the Terms.

## 15. TERM AND TERMINATION

- 15.1 Either Party may terminate these Terms without cause by providing the other Party with 30 days notice, in writing.
- 15.2 If either Party commits a remediable breach of these Terms and does not remedy the breach at its cost within a reasonable time after receiving written notice of the breach from the other Party, then the Parties agree to engage in the dispute resolution process set out in clause 12.2 in the first instance. If the dispute is not resolved after following that process, then either Party may terminate these Terms at any time upon written notice to the other Party.
- 15.3 We may terminate these Terms immediately upon written notice to you, if:
- (a) you commit a non-remediable breach of these Terms;
  - (b) you fail to provide us with clear or timely instructions to enable us to provide the Services;
  - (c) for any other reason outside our control which has the effect of compromising our ability to perform the Services within the required timeframe; or
  - (d) you fail to pay an invoice by the due date.
- 15.4 You may terminate these Terms immediately upon written notice to us if we commit a non-remediable breach of these Terms.
- 15.5 On termination of these Terms in accordance with clause 15.3 or clause 15.4 you agree that any Deposit or payments made are not refundable to you to the extent of all Services provided prior to termination, including Services which have been performed and have not yet been invoiced to you.
- 15.6 On termination of these Terms, you agree to promptly return (where possible), or delete or destroy (where not possible to return), our Confidential Information and Intellectual Property, and/or documents containing or relating to our Confidential Information and/or Intellectual Property.
- 15.7 On termination of these Terms, we agree to promptly return (where possible), or delete or destroy (where not possible to return), your Confidential Information and Intellectual Property, and/or documents containing or relating to your Confidential Information and/or Intellectual Property.
- 15.8 On completion of the Services, we will retain your documents related to the provision of the Services to you (including copies) as required by law or regulatory requirements. Your express or implied agreement to these Terms constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on termination of these Terms.
- 15.9 The accrued rights, obligations and remedies of the Parties are not affected by the termination of these Terms.

## 16. INSOLVENCY

- 16.1 If either Party:

- (a) being a person, becomes bankrupt or makes an assignment of its estate for the benefit of its creditors;
- (b) being a company, becomes insolvent, has a liquidator, provisional liquidator, administrator or receiver appointed or takes or has taken or instituted against it any action which may result in the liquidation of the company or if it enters into any Subcontract with its creditors,

the other Party may, without issuing a notice to show cause, terminate the Agreement by written notice.

## 17. CONSUMER LAW, LIMITATION OF LIABILITY AND DISCLAIMERS

- 17.1 **Service Standard:** We will provide the Services with due care and skill, the Services will be fit for the purpose that we advertise, and we will supply the Services within a reasonable time.
- 17.2 **ACL:** To the extent that you are considered a 'consumer' under the ACL, certain legislation including the Australian Consumer Law (**ACL**) in the *Competition and Consumer Act 2010* (Cth) and similar consumer protection laws and regulations may confer you with rights, warranties, guarantees and remedies relating to the provision of Services by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).
- 17.3 **Statutory Rights:** Nothing in these Terms excludes your Statutory Rights as a consumer under the ACL. You agree that our liability for the Services is governed solely by the ACL and these Terms.
- 17.4 **Warranties:** Except for your Statutory Rights (and Our Warranty), we exclude all express and implied warranties representations and guarantees and all material and work is provided to you without warranties, representations and guarantees of any kind.
- 17.5 **Delay:** Where the provision of Services depends on your information or response, we have no liability for a failure to perform the Services, where it is affected by your delay in response or supply of incomplete or incorrect information.
- 17.6 **Referrals:** We may provide you with contact details of third party specialists. This is not a recommendation by us for you to seek their advice or to use their services. We make no representation or warranty about the third party advice or provision of services, and we disclaim all responsibility and liability for the third party advice or provision of services, or their failure to advise or provide services.
- 17.7 **Availability:** To the extent permitted by law, we exclude liability for:
- (a) the Services being unavailable; and
  - (b) any Claims for loss of profits, revenue, production, opportunity, access to markets, goodwill, reputation or any loss or damage relating to business interruption or otherwise, suffered by you or made against you, arising out of or in connection with your inability to access or use the Services or the late supply of Services, even if we were expressly advised of the likelihood of such loss or damage.

- 17.8 **Disclaimers:** To the extent permitted by law we disclaim all responsibility and liability for:
- (a) any damage or loss arising from the removal of existing fixtures (including shower screens, mirrors, or similar items), except where caused by our negligence;
  - (b) products and services you purchase from a third party;
  - (c) damage caused to your property other than due to our negligent act or omission;
  - (d) subject to clause 5, any additional fees that arise unexpectedly as part of the job, that could not have been reasonably identified initially;
  - (e) any disturbance or rectifications made to an unforeseen service such as any cables, water pipes, gas pipes, storm water drains or fibre optic cables;
  - (f) personal injury caused to you or any third party other than due to our negligent act or omission;
  - (g) any faults in work performed by us that has been tampered with, serviced or worked on by a third party. This will void Our Warranty;
  - (h) any damage caused where you have failed to provide us with plans as requested;
  - (i) variations in materials from any samples or online representations;
  - (j) any inaccuracies as a result of incorrect measurements or plans provided to us;
  - (k) any delays due to reasons out of our control, including but not limited to inclement weather and material supply delays and shortages;
  - (l) any damage due to exposure to the elements e.g. salt, wind, water, weather conditions, flash flooding etc.;
  - (m) any damage caused by animals and/or pests;
  - (n) naturally occurring damage, ageing and discolouration;
  - (o) any damage that occurs as a result of existing structural issues, defective frames, walls, tiles or surrounding materials that become apparent during installation or removal of glass or fixtures; and
  - (p) any breakage of existing glass, tiles or surrounding materials that occurs during removal of existing glazing, where such breakage could not reasonably have been avoided due to the condition, age or installation method of the existing fixtures.
- 17.9 **Limitation:** To the extent permitted by law, our total liability arising out of or in connection with the Services, however arising, including under contract, tort including negligence, in equity, under statute or otherwise, is limited to us re-supplying the Services to you, or, at our option, us refunding to you the amount you have paid us for the Services to which your claim relates. Our total liability to you for all damages in connection with the Services will not exceed the price paid by you under these Terms and pursuant to the Quote for the 12 month period prior to the act which gave rise to the liability, or one hundred dollars (AUD\$100) if no such payments have been made.
- 17.10 This clause will survive the termination of these Terms.
- 18. INDEMNITY**
- 18.1 You are liable for and agree to indemnify, defend and hold us harmless for and against any and all Claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:
- (a) any information provided by you to us that was not accurate, up to date or complete or was misleading or a misrepresentation;
  - (b) your breach of these Terms;
  - (c) any misuse of the Services by you, your employees, contractors or agents; and
  - (d) your breach of any law or third party rights.
- 18.2 We are liable for and agree to indemnify, defend and hold harmless for and against any and all Claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:
- (a) any information provided to you by us that was not accurate, up to date or complete or was misleading or a representation;
  - (b) our breach of these Terms;
  - (c) any defect or omission in the Services from or by us, our employees, contractors or agents;
  - (d) our breach of any law or third party rights in connection with our provision of the Services to you.
- 18.3 The Parties agree to co-operate with each other (at their own expense) in the handling of disputes, complaints, investigations or litigation that arises as a result of these Terms.
- 18.4 This clause will survive the termination of these Terms.
- 19. GENERAL**
- 19.1 **Privacy:** We agree to comply with the legal requirements of the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth) and any other applicable legislation or privacy guidelines.
- 19.2 **Publicity:** You consent to us stating that we provided Services to you, including but not limited to taking photographs/videos of our work and mentioning you on our website, social media platforms and in our promotional material, unless you give us written notice that you withdraw your consent in this regard.
- 19.3 **Email:** You agree that we are able to send electronic mail to you and receive electronic mail from you. You release us from any claim you may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to your system or any files by a transfer.
- 19.4 **GST:** If and when applicable, GST payable on the Fee for the Services will be set out on our invoices. You agree to pay the GST amount at the same time as you pay the Fee.
- 19.5 **Relationship of Parties:** These Terms are not intended to create a relationship between the Parties of partnership, joint venture, or employer-employee.

- 19.6 **Assignment:** These Terms are personal to the Parties. A Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent not to be unreasonably withheld).
- 19.7 **Severance:** To the extent permitted by law, if any provision (or part of it) under these Terms is held to be unenforceable or invalid in any jurisdiction, then it will be interpreted as narrowly as necessary to allow it to be enforceable or valid. If a provision (or part of it) under these Terms cannot be interpreted as narrowly as necessary to allow it to be enforceable or valid, then the provision (or part of it) must be severed from these Terms and the remaining provisions (and remaining part of the provision) of these Terms are valid and enforceable.
- 19.8 **Force Majeure:** Neither Party will be liable for any delay or failure to perform its obligations under these Terms if such delay is due to any circumstance beyond their reasonable control.
- 19.9 **Notices:** Any notice required or permitted to be given by either Party to the other under these Terms will be in writing addressed to the relevant address in the Quote. Any notice may be sent by standard post or email, and notices will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 19.10 **Jurisdiction & Applicable Law:** These terms are governed by the laws of Queensland and the Commonwealth of Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Queensland.
- 19.11 **Entire Agreement:** These Terms and any document expressly referred to in them represent the entire agreement between the Parties and supersede any prior agreement, understanding or arrangement between the Parties, whether oral or in writing.
- 19.12 **Special Conditions:** The Special Conditions will prevail to the extent of any inconsistency with these Terms.
- 20. DEFINITIONS**
- 20.1 **Business Day** means a day which is not a Saturday, Sunday or bank or public holiday in Queensland, Australia.
- 20.2 **Call Out Fees** (if any) are set out in the Quote.
- 20.3 **Claim/Claims** includes a claim, notice, demand, right, entitlement, action, proceeding, litigation, prosecution, arbitration, investigation, judgment, award, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute, whether indirect, incidental, special, consequential and/or incidental, and whether involving a third party or a Party to the Terms or otherwise.
- 20.4 **Confidential Information** includes confidential information about you, your credit card or payment details, and the business, structure, programs, processes, methods, operating procedures, activities, products and services, trade secrets, know how, financial, accounting, marketing and technical information, customer and supplier lists (including prospective customer and supplier information), ideas, concepts, technology, and other information of either Party whether or not such information is reduced to a tangible form or marked in writing as "confidential".
- 20.5 **Deposit** (if any) set out in the Quote.
- 20.6 **Expenses** (if any) are set out in the Quote.
- 20.7 **Fees** are set out in the Quote.
- 20.8 **GST** means GST as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended from time to time or any replacement or other relevant legislation and regulations.
- 20.9 **Hourly Rates** as set out in the Quote.
- 20.10 **Intellectual Property** includes any and all present and future rights to intellectual and industrial property throughout the world, and includes all copyright and analogous rights, all rights in relation to inventions (including patent rights), patents, improvements, registered and unregistered trademarks, designs, any corresponding property rights under the laws of any jurisdiction, discoveries, circuit layouts, trade names, trade secrets, secret processes, know-how, concepts, ideas, information, processes, data or formulae, business names, company names or internet domain names, and any Confidential Information.
- 20.11 **Moral Rights** means the right of attribution of authorship, the right not to have authorship falsely attributed and the right of integrity of authorship, as defined in the *Copyright Act 1968* (Cth).
- 20.12 **Party and Parties** means a party or parties to these Terms.
- 20.13 **QBCC** means the Queensland Building and Construction Commission.
- 20.14 **QBCC Act** means the Queensland Building and Construction Commission Act 1991.
- 20.15 **Quote** means the quote to which these Terms are attached.
- 20.16 **Requirements** means any instructions, directions, care guidelines or other instructional information provided to you by us.
- 20.17 **Services** are set out in the Quote.
- 20.18 **Special Conditions** means the special conditions, if any, detailed in the Quote.
- 20.19 **Terms** means these terms and conditions.
- 20.20 **Variation** means:
- (a) when advised by us to you, necessary amended or additional services, including but not limited to changes to the Quote, Services, Fees or Expenses; or
  - (b) amended or additional services as requested by you.