



## TERMS AND CONDITIONS

These Terms and Conditions apply to all quotes issued, and any work otherwise undertaken at the request of a Customer, by Abode Electric Qld Pty Ltd. Abode reserves the right to change, modify, add or remove portions of these Terms and Conditions at any time.

### 1. Definitions and Interpretation

**Abode** means Abode Electric QLD Pty Ltd ACN 606 378 572 trading as "Abode Electric", its employees, agents, contractors, successors and assigns.

**Customer** means the person or entity (or any person acting on its behalf) to whom Abode issues a quote or provides Goods and/or Services.

**Dollars or \$** means Australian Dollars, unless expressly stated otherwise.

**Goods** means electrical equipment and components supplied by Abode to the Customer.

**Overdue Account** means any invoice and/or payment claim issued to the Customer which is not paid in accordance with these Terms and Conditions.

**Services** means the performance of electrical work and associated services provided by Abode to the Customer.

**Site** means the place or location where Goods are supplied or Services are carried out by Abode.

**Work** means the provision of Goods and/or Services by Abode.

### 2. Quotes

2.1 All quotes (and the prices therein) are valid for **thirty (30) days** unless otherwise expressly agreed in writing.

2.2 The Customer may accept the quote by any of the following:

- (a) signing and returning a copy of the quote;
- (b) orally agreeing to the quote; or
- (c) providing instructions to, or ordering Goods or Services (or both) from, Abode after receiving the quote.

2.3 By accepting a quote, the Customer acknowledges and agrees that the Customer has read, understood and agreed to be bound by these Terms and Conditions and that the supply of Goods and/or Services by Abode will be subject to these Terms and Conditions.

### 3. Scope of Work

3.1 The quote will specify the Work which will be undertaken by Abode, and the price to be charged by Abode for the Work.

3.2 Any variation to the scope of the Work as detailed in the quote will be subject to any revised price that Abode may advise the Customer.

## 4. Payment

### 4.1 Invoices

In respect of projects lasting less than one (1) week in duration:

- (a) Upon completion of the Work, Abode will issue the Customer with an invoice in respect of the Work carried out by Abode.
- (b) Payment of any invoice is required to be made in full within seven (7) days of the date of the invoice.

### 4.2 Progress Claims

In respect of projects lasting one (1) week or more in duration, Abode will issue the Customer with weekly progress claims, which may, in Abode's sole discretion, require payment to be made for:

- (a) all unfixed materials, equipment and other goods at Site;
- (b) electrical switchboards designed specifically for this project;
- (c) mains and sub mains cables;
- (d) all materials, equipment and other goods stored off Site because of delays in construction or unavailability of Site access;
- (e) all approved variation works in progress;
- (f) 80% of all unapproved variation works in progress;
- (g) 10% of the quoted amount for mobilisation, project setting up, commitment to the initial procurement of materials and subcontracts and other costs and obligations incurred at the commencement of the project;
- (h) for all Goods, 20% of the quoted price on placement of order, 50% on delivery, 25% on completion of fit out, and 5% on completion of the Works and testing and before certification is issued; and
- (i) for all Services, 10% of the quoted price on the Customer's acceptance of the quote, 40% on completion of rough-in, 10% on completion of cut-out and 40% on the completion of Works and testing and before certification is issued.

Payment of any progress claim is required to be made in full within seven (7) days of the date of the progress claim.

### 4.3 Applicable legislation

Where applicable, all invoices and progress claims are payment claims issued pursuant to the *Building and Construction Industry Payments Act 2004* (Qld).

#### 4.4 Advance Payments

Abode may, in its sole discretion, require an advance payment or deposit to be made by the Customer prior to the ordering of Goods and/or commencement of the Work.

#### 4.5 Overdue Accounts

- (a) Abode may, in its absolute discretion, extend the time for payment of any progress claim or invoice which has not been paid in accordance with these Terms and Conditions. Any extension of time for payment of an Overdue Account will not affect, nor amount to a waiver of, any of Abode's rights.
- (b) Abode may, in its absolute discretion, charge monthly interest at the rate of 10% per month on any Overdue Account.
- (c) The Customer must pay any costs (including legal costs on an indemnity basis), expenses or losses incurred or suffered by Abode directly or indirectly arising out of or in relation to the Customer's failure to pay all amounts owing in respect of any Work, or any other breach by the Customer, or termination by Abode, of these Terms and Conditions.
- (d) Abode is authorised by the Customer to collect, retain, record, use and disclose commercial and/or consumer information about the Customer's credit history in accordance with the provisions of the *Privacy Act 1988* (Cth) to any person and/or entity including a solicitor or other professional adviser, a debt collector, credit reporting agency and/or other individual or organisation that maintains credit references and/or default listings, in the event that the Customer fails to pay an Overdue Account or otherwise fails to comply with these Terms and Conditions.
- (e) The Customer agrees that Abode may recover (including by commencing court or tribunal proceedings) the amount of any Overdue Account (including any interest and costs) as a liquidated debt against the Customer.

#### 5. Price

- 5.1 All prices are inclusive of Goods and Services Tax (unless expressly stated otherwise).
- 5.2 The price is quoted on the condition that supplier items and major material items can be ordered and stored either on Site or off Site with storage certificates issued and payment made for materials held in storage. If storage costs are required to be incurred for the purpose of storing any supplier items and major material items, the Customer will be liable for any such costs.
- 5.3 In the event that at any time during the period after the date of the quote and completion of the Work, any new or additional taxation is imposed by law that affects the cost of materials, services or labour associated with the Work, or that may apply to the amount of any invoice or progress claim, such increase may be added to the amount of the quote, at Abode's sole discretion.

5.4 If any Goods are ordered through Abode, the quoted price is based on the price provided to Abode by its supplier at the time of issuing the quote. If, at the time of Abode ordering any Goods from its supplier, the supplier's price of the Goods increases by more than 5%, then Abode reserves the right to apply any increase in the supplier's price to the Goods and the price of the Goods in the quote will increase accordingly.

5.5 If imported Goods are ordered through Abode, the quoted price is based on the exchange rate at the time of issuing the quote. If, at the time of Abode ordering any imported Goods from its supplier, the exchange rate increases by more than 5% of the exchange rate at the time of issuing the quote, then Abode reserves the right to apply the exchange rate at the time of Abode ordering the imported Goods from its supplier and the price of any such imported Goods in the quote will increase accordingly.

5.6 No allowances are made by Abode in its quotes, unless stipulated by Abode in writing, for the payment of any special site allowances. If these are applicable on any Site, Abode reserves the right to require reimbursement of costs as a result of any such special site allowances.

#### 5.7 Cancellation Fees

If the Work is scheduled to commence on a specified date, and the Customer directs Abode not to proceed on the scheduled date (whether by cancellation or postponement), and if Abode is unable to re-allocate its resources allocated for the Work, a cancellation fee of 20% of the quoted price may be charged by Abode, in its sole discretion.

### 6. Time

#### 6.1 Delivery Dates

Delivery dates provided by Abode are estimates only and are subject to change. Abode will endeavour to meet delivery dates but does not accept any liability for failure to complete the Work within any specific delivery period unless specifically stated otherwise in the quote.

#### 6.2 Ordinary Work Hours

- (a) The quote is based on the Work being undertaken during Abode's ordinary work hours, being a standard 8.5 hour day, from 7.00am to 3.30pm, Monday to Friday (excluding public holidays), unless otherwise expressly stated.
- (b) Any Work which the Customer requests to be undertaken outside Abode's ordinary work hours may incur additional costs which will be charged to the Customer at Abode's usual overtime / penalty rates. Such rates will be applied at Abode's sole discretion.

#### 6.3 Delays, Liquidated Damages and Consequential Loss

- (a) Unless specifically stated on the quote, Abode will not be liable to the Customer for any delays or liquidated damages.
- (b) Where any liability for delays or liquidated damages is expressly accepted in writing by Abode:

- (1) payment of any liquidated damages will only be made where the cause for such damages is directly attributable to Abode; and
- (2) any liquidated damages will be limited to a maximum of 1% of the net amount of the invoice per week and will be capped at an overall maximum of 5% of the net amount of the invoice.

(c) Under no circumstances will Abode be liable for any consequential loss, including but not limited to loss of production, loss of income, the opportunity to earn profits, the financial consequences of business interruption and indirect consequential loss, arising out of or in connection with the Work, or any delay in completion thereof.

#### 6.4 Delays by others

- (a) The quote has been provided on the basis that the Work will be carried out as one continuous project, devoid of delay and with the provision of equipment and services by the Customer and other contractors as and when needed.
- (b) Delays in the form of hold-over time, waiting time, industrial disputes or any other delay caused by the Customer or other contractors may be charged at Abode's standard hourly rates, in its absolute discretion.
- (c) Abode reserves the right to charge the Customer for additional costs where the Customer requests acceleration of the works to meet revised programming.
- (d) Abode shall not be liable or be deemed to be in breach of these Terms and Conditions by reason of any delay in performing, or any failure to perform, any of the Work if the delay or failure was due to any cause beyond Abode's control, including, but not limited to, inclement weather, an act of God, a government act, fire, explosion, accident, discovery of hazardous material, civil commotion or industrial dispute.

### 7. Variations

- 7.1 The Customer may request to vary the scope of the Work and Abode may carry out any such variation as requested by the Customer.
- 7.2 The Customer will accept any adjustment to the price of the quote for any variation to the scope of the Work and any delay caused by the variation.
- 7.3 Any variation to the scope of the Work must be agreed between Abode and the Customer in writing prior to Abode undertaking any such variation. Abode reserves the right to waive this requirement in certain circumstances, in its sole discretion.

### 8. Termination

- 8.1 Abode may, in addition to any other course of action available to it, elect to immediately terminate these Terms and Conditions if the Customer:

- (a) fails to pay an Overdue Account in full;
- (b) fails to make an upfront payment which may be required by Abode; or
- (c) fails to remedy any hazardous circumstances at the Site.

8.2 Upon termination of these Terms and Conditions the Customer must pay to Abode, within 7 days:

- (1) any amount in respect of the Work undertaken up to the date of termination of these Terms and Conditions;
- (2) any other amount due to Abode, including any Overdue Account; and
- (3) any interest or costs (including legal costs on an indemnity basis), expenses or losses incurred by Abode as a result of the termination of these Terms and Conditions.

### 9. General

#### 9.1 Site Amenities

All amenities and ablutions (including but not limited to running water, toilet facilities and electricity outlets) will be provided on Site by the Customer free of charge to Abode, unless otherwise agreed between Abode and the Customer.

#### 9.2 Documentation

Drawings, specifications and other information supplied by Abode as part of a quote or tender process shall remain the property of Abode, be regarded as confidential, must not be copied or disclosed to any third party unless authorised by Abode and shall be used only for technical information for the purpose of the Work or as otherwise may be authorised in writing by Abode.

#### 9.3 Retention of title

- (a) Title to any Goods and/or Services provided or undertaken by Abode will not pass to the Customer until payment in full for the Goods and/or Services has been made by the Customer.
- (b) Until payment in full for any Goods and/or Services is made:
  - (1) the Customer holds the Goods and/or Services on trust for Abode;
  - (2) Abode may call for and recover possession of the Goods and/or Services and the Customer must deliver them to Abode; and
  - (3) the Customer authorises and acknowledges that Abode may, upon the giving of written notice, have a right of access to the Site or premises where the Goods and/or Services have been delivered or installed in order to regain possession of them.

#### 9.4 Hazardous Circumstances

- (a) Unless specifically stated in the quote, the price is based on the assumption that the Work will be undertaken in a non-hazardous environment and in the absence of any hazardous circumstances.
- (b) The Customer accepts full responsibility for remedying any hazardous circumstances and for any delays and additional costs that may result from the presence of any hazardous circumstances in or about the Site.
- (c) Hazardous circumstances include but are not limited to the presence of exposed asbestos fibres, unsafe exposed electrical wiring, unsafe Site conditions (including Work required to be undertaken at unsafe heights without appropriate safety infrastructure or equipment) or any other circumstances which Abode may deem to be hazardous in its sole discretion.

#### 9.5 Work Site Access

The Customer will provide free and unrestricted access to all required areas in order for Abode to undertake the Work.

#### 9.6 Non-solicitation

The Customer agrees not to solicit or entice away from Abode (or attempt to do so) any employee, contractor, consultant or Customer of Abode without the express authority of Abode.

#### 9.7 Warranty

- (a) The Customer is entitled to any applicable consumer guarantees in accordance with the *Australian Consumer Law* and any other relevant statutory warranties.
- (b) Abode warrants the quality and workmanship of its Services for a period of 12 months from date of installation of the Goods or undertaking the Services.
- (c) The above warranty is limited to the Services provided by Abode if found to be defective, and does not apply to any Goods which are provided by Abode.
- (d) Where Goods provided by Abode are defective, the Goods will be subject to any manufacturer's or supplier's warranties which may apply.
- (e) If Abode is requested to replace any defective Goods, the further costs associated with replacement of those Goods will be paid by the Customer.

#### 9.8 Insurance

Abode warrants that it maintains appropriate public and products liability insurance.

#### 9.9 Legislation

Abode will comply with all applicable laws and legislation (including the *Electrical Safety Act 2002* (Qld) and *Electrical Safety Regulation 2013* (Qld)) when undertaking the Work.

#### 9.10 Precedence

In the event of conflict between these Terms and Conditions and those that may be included in, or implied by, any documents forming part of an enquiry, specification, quotation, purchase order or contract, then these Terms and Conditions will prevail except in so far as they are expressly varied by Abode in writing or by law.

#### 9.11 Severability

If any provision of these Terms and Conditions is found to be invalid or unenforceable by a court of law, such invalidity or unenforceability will not affect the remainder of these Terms and Conditions, which will continue in full force and effect.

#### 9.12 Jurisdiction

These Terms and Conditions are governed by and construed in accordance with the laws of the State of Queensland. Abode and the Customer irrevocably and unconditionally submit to the non-exclusive jurisdiction of the tribunals and/or courts of the State of Queensland for determining any dispute in relation to the Work.