

TERMS AND CONDITIONS OF TRADE

These Terms apply to all quotations, purchase order responses, work authorisations, service schedules, Goods and Services supplied by Jembrae Electrical Services Pty Ltd unless Jembrae agrees otherwise in writing. Mandatory laws, including Australian Consumer Law, electrical safety, domestic building, labour hire, work health and safety and Security of Payment laws, prevail to the extent they cannot be excluded.

Customer acceptance

The Customer accepts these Terms by accepting a Quote, issuing an Order, giving instructions, allowing Jembrae to commence work, accepting Goods or Services, or paying an invoice.

1. Definitions and interpretation

In these Terms, unless the context requires otherwise:

- 1.1. **Additional Costs** means: All costs, charges and expenses reasonably incurred by Jembrae in connection with Goods or Services that are not expressly included in the Quote, including call-out fees, after-hours rates, travel, accommodation, parking, tolls, freight, delivery, crantage, scaffolding, access equipment, traffic management, inductions, permits, licences, testing, third-party contractor costs, storage, merchant fees, restocking fees, demobilisation, remobilisation and taxes or duties other than GST.
- 1.2. **Australian Consumer Law or ACL** means: Schedule 2 to the Competition and Consumer Act 2010 (Cth).
- 1.3. **Business Day** means: A day other than a Saturday, Sunday or public holiday in the place where the Services are supplied.
- 1.4. **Confidential Information** means: Information identified as confidential or that a reasonable person would regard as confidential, including pricing, drawings, designs, technical information, methods, systems, customer information, commercial information and intellectual property.
- 1.5. **Customer, You or Your** means: The person, company, trustee, partnership, government agency or other entity that requests or receives Goods or Services from Jembrae, including related bodies corporate, successors, permitted assigns and authorised representatives.
- 1.6. **Equipment** means: Any tools, plant, instruments, test equipment, access equipment, machinery, vehicles, hardware, devices, accessories or other equipment supplied, used, installed temporarily, loaned or hired by Jembrae in connection with the Services.
- 1.7. **Force Majeure Event** means: An event beyond a party's reasonable control, including extreme weather, fire, flood, storm, pandemic, war, terrorism, industrial dispute, transport delay, utility interruption, cyber incident, supply chain disruption, government restriction, site shutdown, or failure of third-party systems or suppliers.
- 1.8. **Goods** means: All products, components, materials, consumables, parts, switchboards, cables, devices, software, hardware and other goods supplied by Jembrae.
- 1.9. **Hire Period** means: The period for which Equipment or Personnel are supplied or made available to the Customer, including any minimum period, rollover, extension, possession period or delay in return.
- 1.10. **Jembrae, We, Us or Our** means: Jembrae Electrical Services Pty Ltd ABN 66 698 026 569, REC 38201, its employees, contractors, agents, successors and permitted assigns.
- 1.11. **Order** means: Any request, instruction, purchase order, signed Quote, acceptance, work authorisation or other request for Jembrae to supply Goods or Services.
- 1.12. **Personnel** means: Personnel supplied or arranged by Jembrae to perform Services, including employees, subcontractors, consultants, labour support personnel and temporary workers.
- 1.13. **PPSA** means: The Personal Property Securities Act 2009 (Cth) and its regulations.
- 1.14. **Price** means: The price payable for Goods and Services, plus GST and Additional Costs where applicable.
- 1.15. **Quote** means: Jembrae's written quotation, proposal, estimate, schedule of rates, service schedule or other document describing the proposed Goods or Services.
- 1.16. **Services** means: Electrical contracting, installation, maintenance, repairs, breakdown support, fault finding, testing, tagging, inspections, audits, compliance works, switchboard works, control panel works, cabling, commissioning, design, drafting, programming, automation and control support, labour support, Equipment hire, project work, emergency call-out services and any other services agreed in writing.
- 1.17. **Site** means: Any place where Goods are delivered or Services are performed, including premises controlled by the Customer or a third party.
- 1.18. **Terms** means: These Terms and Conditions of Trade, as updated from time to time.
- 1.19. **Loss** means any loss, damage, cost, expense, liability, claim, demand, charge, penalty, fine, tax, duty, interest, compensation, outgoing, legal cost, debt collection cost or other amount, whether present, future, direct, indirect, contingent or consequential.
- 1.20. **Insolvency Event** means where a party becomes insolvent, is unable to pay its debts as and when they fall due, enters liquidation, administration, receivership, bankruptcy, deregistration, restructuring or any arrangement with creditors, has an external controller appointed, or anything having a substantially similar effect occurs.
- 1.21. A reference to writing includes email. A reference to a law includes that law as amended, replaced or re-enacted. Headings are for convenience only. Words such as including and for example do not limit the meaning of the words that follow. If a payment or obligation falls due on a non-Business Day, it must be done on the preceding Business Day unless Jembrae agrees otherwise in writing.

2. Application, acceptance and priority of documents

- 2.1. These Terms apply to all Goods and Services supplied by Jembrae unless Jembrae agrees otherwise in writing.
- 2.2. The contract between the parties is made up of these Terms, the Quote, any service schedule, any credit application, any agreed special conditions and any written variation accepted by Jembrae.
- 2.3. The Customer accepts these Terms by signing them, accepting a Quote, issuing an Order, giving verbal or written instructions, allowing Jembrae to commence work, accepting delivery of Goods, accepting Services or paying any invoice.
- 2.4. If there is any inconsistency between documents, the order of priority is: first, any special conditions expressly agreed in writing by Jembrae; second, the Quote or service schedule; third, these Terms; and fourth, any other document accepted by Jembrae in writing.
- 2.5. Any terms or conditions printed on or attached to the Customer's purchase order, request for quotation, portal, delivery docket or other document are excluded and have no effect unless Jembrae expressly accepts them in writing.
- 2.6. A person who signs, accepts or gives instructions on behalf of the Customer warrants that they have authority to bind the Customer. If more than one person or entity is the Customer, each is jointly and severally liable.
- 2.7. If the Customer enters into the contract as trustee of a trust, the Customer warrants that it has full authority to do so and that its right of indemnity from the trust assets is not limited or excluded.

3. Quotations, orders and scope

- 3.1. A Quote is valid for 30 days unless the Quote states another validity period. Jembrae may withdraw or revise a Quote before acceptance.
- 3.2. A Quote is based on the information available to Jembrae at the time, including Site conditions, Customer instructions, drawings, specifications, photographs, reports, access information and assumptions stated in the Quote.
- 3.3. An Order is not binding on Jembrae until Jembrae accepts it in writing or commences supply of the Goods or Services.
- 3.4. The Customer must provide complete, accurate and timely information required by Jembrae to price and perform the work. Jembrae may rely on information provided by or for the Customer and is not responsible for Loss caused by inaccurate, incomplete or misleading information.
- 3.5. The Services are limited to the scope expressly stated in the Quote or agreed in writing. Anything not expressly included is excluded.
- 3.6. Unless the Quote states otherwise, the Price excludes design certification by third-party engineers, authority fees, after-hours work, making good, painting, plastering, roofing, carpentry, civil works, asbestos removal, fire-stopping certification, hazardous area certification, traffic management, shutdown planning, permits, utility or third-party isolations, client portal fees and work required because of hidden or latent conditions.
- 3.7. Jembrae may refuse or suspend work where the requested work is outside Jembrae's licence, capability, insurance, risk appetite, safety standards or legal obligations. Jembrae is not liable for delay or Loss arising from such refusal or suspension, except to the extent caused by Jembrae's negligence or breach of law.

4. Price, GST, deposits and variations

- 4.1. The Customer must pay the Price stated in the Quote, Jembrae's schedule of rates, Jembrae's invoice or any other written pricing document accepted by Jembrae.
- 4.2. Unless expressly stated otherwise, all prices are in Australian dollars and exclusive of GST. The Customer must pay GST at the same time and in the same manner as the Price.
- 4.3. Jembrae may require a deposit, mobilisation payment, upfront payment, progress payment, credit card pre-authorisation, personal guarantee, PPSA registration or other security before commencing or continuing work.
- 4.4. A deposit is non-refundable to the extent Jembrae has incurred costs, allocated labour, ordered materials, paid suppliers, performed work, declined other work or otherwise suffered Loss in reliance on the Order.
- 4.5. Jembrae may vary the Price where: the Customer requests a change in scope, quantity, timing, specification, standard, design, material, Personnel, Equipment, Site or delivery requirement; Site conditions differ from those assumed in the Quote; the cost of labour, materials, freight, equipment, exchange rates, insurance, taxes, duties, compliance costs or subcontractors increases after the Quote is issued; work must be performed urgently, outside ordinary hours, during shutdown windows or under special access conditions; a law, authority, standard, site rule, industrial instrument or regulator requires additional work or costs; or the Customer fails to do something required for efficient performance.
- 4.6. Jembrae will use reasonable endeavours to obtain written approval for variations before carrying them out. However, the Customer must pay for variations that are urgent, required for safety, required by law, necessary to prevent damage or downtime, or requested by the Customer or its authorised representative.
- 4.7. Where rates are not agreed for a variation, the variation will be charged at Jembrae's then-current rates plus materials, subcontractors, plant, margin and Additional Costs.

5. Payment, credit accounts and overdue amounts

- 5.1. Unless the Quote or invoice states otherwise, payment is due within 7 days from the date of invoice. Time for payment is of the essence.

- 5.2. Jembrae may approve, decline, suspend, reduce or withdraw a credit account at any time. Credit is not available until Jembrae confirms approval in writing.
- 5.3. The Customer must not withhold, deduct, retain or set off any amount against an invoice without Jembrae's prior written consent, even if part of the invoice is disputed. Any retention, backcharge or contra charge applies only if expressly agreed by Jembrae in writing.
- 5.4. If the Customer disputes an invoice, it must notify Jembrae in writing within 5 Business Days after receiving the invoice, identify the disputed amount and reasons, and pay all undisputed amounts by the due date.
- 5.5. If payment is not received by the due date, Jembrae may, without limiting any other rights: charge interest at 4% above the Reserve Bank of Australia cash rate calculated daily and capitalised monthly; recover reasonable debt collection, legal and mercantile agent costs on a full indemnity basis; require cash on delivery or upfront payment; suspend, cancel or delay supply; cancel any credit account; require immediate payment of all outstanding amounts, whether or not otherwise due; and register or report a payment default where permitted by law.
- 5.6. Jembrae may allocate any payment received from the Customer to any debt, invoice, interest, cost or security interest in any order Jembrae determines. Payment by cheque or other negotiable instrument is not received until cleared and honoured.
- 5.7. Jembrae may withhold non-statutory drawings, reports, operation manuals, certificates, commissioning documents, software backups, access credentials and handover documentation until all due amounts are paid. Jembrae will issue any mandatory statutory certificates as required by law.

6. Supply of Services, timing and delivery

- 6.1. Jembrae will perform the Services with due care and skill and in accordance with applicable licensing obligations and professional standards.
- 6.2. Any delivery date, commencement date, completion date or duration given by Jembrae is an estimate only unless Jembrae expressly agrees in writing that time is of the essence.
- 6.3. Jembrae is entitled to an extension of time and recovery of Additional Costs for delay caused or contributed to by the Customer, third parties, utility providers, regulators, latent conditions, supply chain issues, Force Majeure Events or matters beyond Jembrae's reasonable control.
- 6.4. Unless expressly agreed in writing, Jembrae is not liable for liquidated damages, delay damages, production losses or downtime arising from delay.
- 6.5. Delivery of Goods occurs when the Goods are delivered to the Site, handed to the Customer or its representative, delivered to the Customer's nominated carrier, or left at a place nominated or reasonably apparent as the delivery point.
- 6.6. Jembrae may deliver Goods or Services in stages and invoice each stage separately. If the Customer is not ready to receive Goods or Services, or if access is delayed or denied, Jembrae may charge waiting time, redelivery, storage, demurrage, remobilisation and other Additional Costs.
- 6.7. The Customer authorises Jembrae to leave Goods at the Site or another nominated location. Goods left at an unattended location are at the Customer's risk. The Customer must inspect Goods and Services on delivery or completion and notify Jembrae of any obvious issue as soon as practicable.

7. Customer responsibilities and Site requirements

- 7.1. The Customer must provide and maintain a safe, lawful and suitable Site for Jembrae, its Personnel, subcontractors and suppliers.
- 7.2. Before and during the Services, the Customer must give Jembrae safe, clear, continuous and adequate access to work areas, switchboards, isolators, risers, ceiling spaces, plant rooms, panels and equipment; provide accurate drawings, schematics, specifications, asset registers, operating manuals, permits, site rules, induction requirements and other information reasonably required; arrange approvals, permits, shutdowns, isolations,

escorts, access cards, security clearances and authority consents not expressly included in the Quote; ensure Customer plant, machinery, equipment, infrastructure and existing installations are safe, accessible and suitable; provide power, water, lighting, amenities, laydown areas, storage, lifting equipment, scaffolding, access equipment, traffic management and site-specific PPE unless included in the Quote; ensure other trades and contractors do not delay, obstruct, damage or interfere with Jembrae; notify Jembrae of any Site hazard, hazardous material, asbestos, live service, confined space, height risk, hazardous area, contaminated area, security requirement or process risk; and protect installed or delivered Goods from theft, damage, weather, contamination and misuse.

- 7.3. The Customer is responsible for the acts and omissions of its employees, agents, representatives, tenants, invitees, other contractors and any person under its control.
- 7.4. If Jembrae reasonably considers that the Site or work is unsafe, non-compliant or unsuitable, Jembrae may suspend work until the issue is remedied and may charge the Customer for resulting delay and Additional Costs.

8. Electrical safety, compliance and hidden conditions

- 8.1. Jembrae will carry out electrical work in accordance with applicable electrical safety laws, licensing requirements and standards that apply to the Services, including AS/NZS 3000 and other standards specified in the Quote where applicable.
- 8.2. Where legally required and within the scope of the Services, Jembrae will provide certificates, test records, commissioning documents or compliance documentation relevant to the work performed by Jembrae.
- 8.3. The Customer acknowledges that electrical work may reveal hidden, unsafe, defective, undocumented or non-compliant conditions. Jembrae is not responsible for pre-existing defects or non-compliance except to the extent caused by Jembrae.
- 8.4. If Jembrae discovers unsafe wiring, overloaded circuits, defective switchgear, damaged equipment, water ingress, asbestos, combustible cladding, structural defects, unmarked services, access risks, missing documentation, inadequate capacity or other issues, Jembrae may suspend or delay the Services; make the area safe where required by law or safety obligations; issue a variation for additional work, testing, materials or rectification; and decline to energise, connect, commission or certify the relevant installation until Jembrae is satisfied it is safe and compliant.
- 8.5. The Customer must identify, locate and clearly mark all underground, concealed, embedded, overhead and hidden services before Jembrae starts work. This includes electrical, gas, water, fire, sewer, stormwater, communications, data, fibre optic, compressed air, hydraulic, process, security and control services.
- 8.6. Jembrae will take reasonable care to avoid damage to identified services, but the Customer indemnifies Jembrae for Loss caused by inaccurate, incomplete or missing information about services, hazards or Site conditions, except to the extent caused by Jembrae's negligence.
- 8.7. The Customer warrants that any structure, plant, cable route, containment, switchboard, meter panel, support, roof, wall, slab or other item to which Goods are fixed or connected is suitable, safe and capable of supporting and operating with the Goods and Services.

9. Goods, materials, title, risk and PPSA

- 9.1. Risk in Goods passes to the Customer on delivery to the Site, collection by the Customer, delivery to the Customer's nominated carrier or when the Goods are left at the Customer's nominated location.
- 9.2. Ownership of Goods remains with Jembrae and does not pass to the Customer until the Customer has paid all amounts owing to Jembrae on any account and performed all other obligations owed to Jembrae.
- 9.3. Until ownership passes, the Customer holds the Goods as bailee for Jembrae, must keep them separate and identifiable where practicable, must insure them for full replacement value, and must

not sell, charge, encumber, dispose of or part with possession of them except in the ordinary course of business.

- 9.4. If the Customer sells or disposes of Goods before ownership passes, it does so as fiduciary agent for Jembrae and must hold the proceeds on trust for Jembrae.
- 9.5. The Customer grants Jembrae a security interest in the Goods, proceeds of the Goods, Equipment and any other personal property to which the PPSA may apply to secure all amounts owing to Jembrae.
- 9.6. The Customer must do all things and sign all documents reasonably required by Jembrae to perfect, protect, register, maintain or enforce any security interest, including a purchase money security interest, on the Personal Property Securities Register.
- 9.7. To the extent permitted by law, the Customer waives any right to receive PPSA notices, verification statements or other notices that may be waived, and agrees that sections of the PPSA that may be excluded are excluded to the maximum extent permitted.
- 9.8. If the Customer defaults or suffers an Insolvency Event, Jembrae may enter any premises where Goods or Equipment are located to inspect, recover or repossess them, without being liable for trespass or resulting Loss except to the extent caused by Jembrae's negligence.
- 9.9. Where the Customer supplies materials, components, drawings, data, designs, software, equipment or specifications, the Customer warrants they are accurate, safe, lawful, fit for purpose and compliant. Jembrae is not liable for defects or Loss caused by Customer-supplied items or information.

10. Equipment hire and loan equipment

- 10.1. This clause applies only where Jembrae hires, loans, leaves on Site or makes Equipment available to the Customer.
- 10.2. Equipment remains the property of Jembrae or its supplier at all times. The Customer obtains no ownership interest in Equipment.
- 10.3. The Customer must ensure Equipment is suitable for its intended use, operated only by competent and appropriately licensed persons, used in accordance with all instructions and laws, kept clean and secure, and returned in the same condition as supplied, fair wear and tear excepted.
- 10.4. The Customer must not move Equipment from the Site, alter it, repair it, deface identifying marks, grant a lien over it, encumber it, sub-hire it, allow unauthorised use, or use it for any unlawful, unsafe or unintended purpose without Jembrae's prior written consent.
- 10.5. The Customer is responsible for loss, theft or damage to Equipment during the Hire Period, except to the extent directly caused by Jembrae. The Customer must pay repair or replacement costs, loss of hire, insurance excesses and associated Additional Costs.
- 10.6. If Equipment breaks down, becomes unsafe or requires recalibration, repair or maintenance, the Customer must stop using it immediately, secure it, prevent further damage or injury, and notify Jembrae.
- 10.7. The Customer must maintain insurance for Equipment for its full replacement value and for public and third-party liability arising from its use where Jembrae reasonably requires.

11. Personnel, labour support and non-solicitation

- 11.1. This clause applies only where Jembrae supplies Personnel on a labour support, temporary, shift coverage, embedded maintenance or similar arrangement.
- 11.2. Jembrae will only supply Personnel where it is lawful for Jembrae to do so and, where required, Jembrae holds or is covered by any applicable labour hire licence.
- 11.3. Jembrae will use reasonable endeavours to supply Personnel with appropriate licences, skills and experience for the role described in the Quote or Order.
- 11.4. The Customer must provide Site-specific induction, supervision, instructions, safe systems of work, safe equipment, permits, PPE unique to the Site, timesheet approval, incident reporting and all information required for Personnel to work safely and lawfully.

- 11.5. While Personnel are working under the Customer's direction or at the Customer's Site, the Customer is responsible for day-to-day supervision, allocation of tasks, safe systems of work and the safety of the working environment.
- 11.6. The Customer must not require Personnel to perform tasks, operate equipment or enter areas for which they are not licensed, trained, authorised or inducted.
- 11.7. The Customer must immediately notify Jembrae of any injury, near miss, safety incident, misconduct, underperformance or proposed change to duties, hours, location, equipment or risk profile.
- 11.8. Unless Jembrae agrees in writing, the Customer must not directly or indirectly employ, engage, solicit or encourage any Personnel to leave Jembrae during the supply period or within 12 months after the Personnel last performed work for the Customer.
- 11.9. If the Customer breaches the non-solicitation obligation, the Customer must pay Jembrae a placement fee equal to 15% of the Personnel's annualised remuneration package or another amount stated in the Quote. The parties agree this is a genuine pre-estimate of Jembrae's Loss and not a penalty.

12. Returns, defects, warranties and Australian Consumer Law

- 12.1. Nothing in these Terms excludes, restricts or modifies any consumer guarantee, statutory warranty or other right that cannot lawfully be excluded, restricted or modified.
- 12.2. Goods and Services may come with guarantees under the Australian Consumer Law. For major failures, the Customer may be entitled to remedies that cannot be excluded by these Terms.
- 12.3. Subject to the ACL and any express warranty in the Quote, Jembrae's workmanship warranty is 12 months from practical completion of the relevant Services.
- 12.4. Manufacturer warranties for Goods are passed through to the Customer to the extent Jembrae is able to do so. Jembrae is not the manufacturer of third-party Goods unless expressly stated.
- 12.5. The Customer must notify Jembrae in writing of any obvious defect, shortage, damage or non-compliance within 5 Business Days after delivery or completion, and any latent defect as soon as reasonably practicable after it becomes apparent.
- 12.6. The Customer must give Jembrae a reasonable opportunity to inspect, test and rectify any alleged defect before the Customer engages a third party or incurs costs, except in an emergency where immediate action is reasonably required to prevent injury or material damage.
- 12.7. Jembrae is not liable for defects, faults, failures or damage caused or contributed to by pre-existing defects or non-compliance; wear and tear; misuse, abuse, neglect, vandalism, accident, fire, flood, water ingress, pest damage, power surge or Force Majeure Event; use outside design limits or intended purpose; failure to follow instructions; unauthorised repair, relocation, modification, interference or tampering; Customer-supplied materials, designs, software, data or equipment; or third-party work or services not controlled by Jembrae.
- 12.8. Subject to the ACL, Jembrae may decline returns of non-defective Goods, custom-made items, special-order items, opened items, installed items, used items, electrical components that cannot be resold, software, licences, or Goods damaged after delivery.
- 12.9. Where Jembrae accepts a discretionary return, the Customer must pay freight, handling, testing, repacking and restocking charges unless Jembrae agrees otherwise.

13. Insurance, liability and indemnities

- 13.1. Jembrae will maintain insurance that Jembrae considers reasonably appropriate for its business and any insurance required by law. The Customer must maintain adequate property, business interruption, public liability, contract works, plant and equipment, cyber and other insurance appropriate to the Site and the Goods and Services.
- 13.2. To the maximum extent permitted by law, Jembrae's liability arising out of or in connection with the Goods, Services or these Terms is limited, at Jembrae's option, to resupplying the Services, replacing or repairing Goods, paying the cost of resupply, replacement or

repair, or refunding the Price paid for the affected Goods or Services.

- 13.3. To the maximum extent permitted by law, Jembrae's total aggregate liability for all claims arising out of or in connection with a Quote, Order or the Services will not exceed the Price paid by the Customer for the affected Goods or Services.
- 13.4. Jembrae is not liable for indirect, consequential, special or economic loss, including loss of production, loss of revenue, loss of profit, loss of opportunity, loss of goodwill, downtime, liquidated damages owed to a third party, loss of data, recall costs, or third-party claims, except to the extent such liability cannot be excluded by law.
- 13.5. Jembrae's liability will be reduced to the extent the Loss is caused or contributed to by the Customer, a third party, pre-existing conditions, Customer-supplied information or materials, or the Customer's failure to mitigate Loss.
- 13.6. The Customer indemnifies Jembrae against Loss suffered or incurred by Jembrae arising out of or in connection with the Customer's breach of these Terms; unsafe or unsuitable Site conditions; inaccurate, incomplete or misleading information supplied by or for the Customer; damage to Equipment, Goods or materials while at the Customer's risk; injury, illness, death or property damage caused by the Customer or persons under its control; infringement of intellectual property rights caused by Customer instructions, designs or materials; or Jembrae relying on Customer approvals, instructions, drawings, data or representations.
- 13.7. The indemnity does not apply to the extent the relevant Loss is caused by Jembrae's negligence, fraud or wilful misconduct.

14. Intellectual property, designs, software and data

- 14.1. Each party retains ownership of intellectual property it owned before the Services commenced.
- 14.2. Unless the Quote states otherwise, all intellectual property in Jembrae's methods, templates, know-how, pricing models, tools, software, base code, libraries, drawings, designs, schematics, calculations, reports, procedures and supplier material remains owned by Jembrae.
- 14.3. On full payment of all amounts owed, Jembrae grants the Customer a non-exclusive, non-transferable licence to use deliverables created for the Customer solely for the Site and purpose for which they were supplied.
- 14.4. The Customer must not copy, commercialise, reverse engineer, decompile, distribute, modify or use Jembrae's intellectual property for any other project or purpose without Jembrae's prior written consent.
- 14.5. Where Jembrae creates or modifies software, PLC code, SCADA/HMI configurations, automation logic, reports, network settings, databases or digital deliverables, the Customer is responsible for backups, cybersecurity, access controls, testing, change management and verifying suitability before operational use unless expressly included in the scope.
- 14.6. The Customer grants Jembrae a licence to use Customer materials, data and intellectual property to the extent reasonably required to perform the Services.
- 14.7. Jembrae may use photographs, descriptions and general details of completed work for marketing, capability statements and tender submissions, provided Jembrae does not disclose the Customer's Confidential Information or sensitive Site information without consent.

15. Confidentiality and privacy

- 15.1. Each party must keep the other party's Confidential Information confidential and use it only for performing or receiving the Goods and Services, enforcing rights, complying with law or obtaining professional advice.
- 15.2. Confidentiality obligations do not apply to information that is public, already known without breach, independently developed, lawfully received from a third party, or required to be disclosed by law, regulator, court, insurer or professional adviser.

- 15.3. Jembrae may collect personal information and credit-related information about the Customer, its representatives and guarantors for quoting, account management, providing Goods and Services, assessing credit, processing payments, managing safety and compliance, debt recovery and legal compliance.
- 15.4. The Customer consents to Jembrae using and disclosing such information to employees, contractors, suppliers, insurers, professional advisers, financiers, credit reporting bodies, debt collectors, regulators and others where reasonably required for those purposes.
- 15.5. The Customer must ensure it has all consents required to provide personal information about its personnel, representatives, tenants, site contacts or other individuals to Jembrae.

16. Suspension, cancellation and termination

- 16.1. Jembrae may suspend or cancel supply, refuse delivery, cease work, recover Goods or Equipment, or terminate a contract immediately by notice if the Customer fails to pay any amount by the due date; breaches these Terms and fails to remedy the breach within 5 Business Days after notice; suffers an Insolvency Event or Jembrae reasonably believes the Customer may be unable to pay debts as they fall due; Jembrae considers the Site, work or instructions unsafe, unlawful, unethical, outside scope or outside Jembrae's licence or capability; the Customer exceeds its credit limit or Jembrae withdraws credit approval; or the Customer or its representatives engage in abusive, threatening, unlawful or reputationally damaging conduct.
- 16.2. The Customer may not cancel an accepted Order without Jembrae's written consent. If Jembrae consents, the Customer must pay for all Goods ordered, work performed, labour allocated, supplier commitments, demobilisation, loss of profit and other Loss arising from cancellation.
- 16.3. Orders for custom-made Goods, special-order items, software, licences, bespoke designs, allocated Personnel or work that has commenced cannot be cancelled except with Jembrae's written consent and on terms acceptable to Jembrae.
- 16.4. On termination or cancellation, all amounts for Goods and Services supplied up to termination, committed costs, cancellation fees, interest and Additional Costs become immediately due and payable.
- 16.5. Termination does not affect accrued rights or any clauses intended to survive, including payment, PPSA, confidentiality, intellectual property, limitation of liability, indemnities, dispute resolution and general clauses.

17. Security of Payment and statutory rights

- 17.1. To the extent the Goods or Services involve construction work or related goods and services, Jembrae may exercise rights under the Building and Construction Industry Security of Payment Act 2002 (Vic) or equivalent legislation in the State or Territory where the work is performed.
- 17.2. Nothing in these Terms is intended to contract out of any applicable Security of Payment legislation or any other law to the extent contracting out is prohibited.
- 17.3. The Customer agrees that invoices, payment claims, notices and communications may be served by email to the Customer's last notified email address unless prohibited by law.
- 17.4. Where domestic building, residential construction, consumer protection, electrical safety, labour hire, security, high voltage, hazardous area or other mandatory laws apply, these Terms operate subject to those laws.

18. Force majeure

- 18.1. A party is not liable for failing to perform an obligation, other than an obligation to pay money, to the extent the failure is caused by a Force Majeure Event.
- 18.2. The affected party must notify the other party of the Force Majeure Event as soon as reasonably practicable and use reasonable endeavours to minimise its effect.

- 18.3. If a Force Majeure Event causes delay, Jembrae is entitled to an extension of time and reimbursement of reasonable Additional Costs caused by the delay.
- 18.4. If a Force Majeure Event continues for more than 30 days and materially affects the Services, either party may terminate the affected Order by written notice. The Customer must pay for all Goods and Services supplied and costs incurred up to termination.

19. Dispute resolution

- 19.1. If a dispute arises, the party raising the dispute must give written notice identifying the dispute and the outcome sought.
- 19.2. The parties must first refer the dispute to their senior representatives, who must meet or confer in good faith to try to resolve the dispute within 10 Business Days after the dispute notice.
- 19.3. If the dispute is not resolved, either party may refer the dispute to mediation administered by the Australian Disputes Centre or another mediator agreed by the parties.
- 19.4. A party must not commence court proceedings about a dispute until this clause has been followed, except for urgent interlocutory relief, debt recovery, enforcement of PPSA rights, or proceedings under Security of Payment legislation.
- 19.5. While a dispute exists, the parties must continue to perform their obligations to the extent reasonably possible. The Customer must continue paying all undisputed amounts.
- 19.6. All settlement discussions and information produced for dispute resolution are confidential unless disclosure is required by law.

20. Notices and electronic communications

- 20.1. A notice under these Terms must be in writing and may be delivered by hand, prepaid post, courier or email to the last address or email address notified by the receiving party.
- 20.2. A notice is taken to be received when delivered by hand or courier, at the time of transmission if sent by email and no bounce-back or delivery failure notice is received, or on the second Business Day after posting within Australia.
- 20.3. The Customer consents to receiving invoices, payment claims, notices, variations, safety documents and other communications by email and electronic signature where permitted by law.
- 20.4. The Customer must promptly notify Jembrae of any change to name, entity, address, email, ownership, control, bank account details, creditworthiness or business structure.

21. General

- 21.1. The parties are independent contractors. Nothing in these Terms creates a partnership, employment relationship, agency, joint venture or fiduciary relationship, except where expressly stated.
- 21.2. Jembrae may subcontract, assign or novate any part of the Goods or Services or its rights under these Terms, provided Jembrae remains responsible for the work to the extent required by law. The Customer must not assign or transfer its rights or obligations without Jembrae's prior written consent.
- 21.3. A waiver is only effective if in writing and signed by the party giving it. A failure or delay in exercising a right is not a waiver.
- 21.4. If any provision is void, illegal or unenforceable, it will be severed to the extent necessary and the remaining provisions continue in force.
- 21.5. These Terms are governed by the laws of Victoria, Australia, unless the Quote states another governing law or mandatory law requires otherwise. The parties submit to the courts of Victoria and any courts entitled to hear appeals from them.
- 21.6. These Terms may be updated by Jembrae from time to time. Updated Terms will apply to Orders placed after Jembrae provides or publishes the updated Terms, unless Jembrae agrees otherwise in writing.
- 21.7. The Customer acknowledges that it has had the opportunity to obtain independent legal, technical and financial advice before accepting these Terms.