

HomeCare Repair Australia

CLIENT TERMS AND CONDITIONS

AJ Grant Building Pty Ltd t/a HomeCare Repair Australia

1. Background

- 1.1. HomeCare Repair Australia ('HCRA') is a national service provider, providing building repairs, make-safe repairs and assessment services to the wider community.
- 1.2. The Client wishes HCRA to provide services and by agreeing to accept the Service, the Client will be bound by the terms and conditions as outlined.
- 1.3. The aim of these terms and conditions is to provide a basis for co-operation between HCRA and the Client, ensuring the Service is provided to a high standard and to the satisfaction of the Client.

2. Interpretation

- 2.1. '**AJ Grant**' means AJ Grant Building Pty Ltd and any related entities.
- 2.2. '**Client**' means the person or entity to which the Service is being provided by the AJ Grant Group pursuant to this agreement.
- 2.3. '**GST**' means any tax pursuant to the *A New Tax System (Goods and Services Tax) Act, 1999 (Cth)* and any subsequent legislation.
- 2.4. '**HCRA**' means AJ Grant Building Pty Ltd t/as HomeCare Repair Australia.
- 2.5. '**Price**' means the cost of the Service provided to the Client in a Quotation by the AJ Grant Group or its representative.
- 2.6. '**Service**' means the works performed and products supplied to the Client pursuant to this agreement.
- 2.7. '**Quotation**' means the Price quoted for the Service prior to entering into this agreement and may provide for instalment payments for larger projects.
- 2.8. '**Terms and Conditions ('T&C')**' means the conditions contained in this agreement.

3. Description of the Service and the Price

- 3.1. The description of the Service and the Quotation will be sent to the client and is available on the HCRA customer portal.
- 3.2. The Service and the Quotation form part of these Terms and conditions.

4. Term of Agreement

- 4.1. This agreement commences once the Client agrees to the T&C and continues until terminated in accordance with the terms of this agreement.
- 4.2. AJ Grant's Public Liability insurance will cover HCRA, its employees, servants, agents and contractors arising out of or in connection the provision of Services pursuant to this agreement for any and/or all liabilities to third parties or the Client in respect of property damage and personal injury.
- 4.3. The Client agrees to pay to HCRA:
 - i. the Price on completion of the Service; or
 - ii. if instalment payments are specified in the Quotation, on or before the date specified for each instalment payment.
- 4.4. Immediate suspension of Service may apply if HCRA has not received a specified instalment payment on or before the time the instalment payment is due.

5. General Obligations

- 5.1. If during the provision of work HCRA is requested by the Client to provide any other work or supply additional goods, HCRA will provide the Client with a new Quotation ('**New Quotation**'). Upon agreement between HCRA and the Client, evidenced by signature of the Client (electronic or otherwise) this agreement will be modified to include the Price provided in the New Quotation and any instalment payments specified in the New Quotation will form part of this agreement.
- 5.2. A Quotation or New Quotation form part of this agreement and these T&C will be read in conjunction with the Quotation or New Quotation.
- 5.3. In the provision of the Service, HCRA will ensure that any task undertaken is only performed by a person holding current licences and proper qualifications requisite for performing such a task.
- 5.4. The Client, its directors, officers, employees and agents agree to jointly and severally indemnify and hold the AJ Grant Group harmless from and against:
 - i. all costs involved in recovery of money owing to HCRA; and
 - ii. consequential losses arising directly or indirectly out of or in connection with this agreement.
- 5.5. The indemnity shall be a continuing indemnity notwithstanding the termination of this agreement.
- 5.6. The Service will comply with (Work Compliance):
 - i. the Building Code of Australia, to the extent required under the *Environmental Planning and Assessment Act 1979 NSW* or other relevant State Legislation.

- ii. all other relevant codes, standards and specifications that the work is required to comply with under any law; and
 - iii. the conditions of any relevant development consent or complying development certificate.
- 5.7. HCRA is not liable in any way for failure to comply with clause 4.6 where the failure relates solely to:
- i. a design or specification prepared by or on behalf of the Client and not by the HCRA; or
 - ii. a design or specification required by the Client where HCRA has advised the Client in writing that the proposed design or specification does not comply with clause 5.6.
- 5.8. Where a material specified or requested which is necessary to complete the Service, or included in a Quotation or New Quotation, is not reasonably obtainable, HCRA will seek written approval for any substitution from the Client prior to using any such substitute.
- 5.9. The Client must allow HCRA or its contractor access to the Site during delivery of the Service between the hours of 7am to 5pm Monday to Sunday and after these hours as mutually agreed.
- 5.10. The Price is inclusive of the use of the Client's electricity, water and toilet facilities. Unavailability of these services will incur an additional cost to the Client.
- 5.11. The Price does not include any regulatory fees, statutory approvals and their associated fees unless specifically included in the Price.
- 5.12. The Price is subject variation as mutually agreed where circumstances exist that an experienced, competent and skilled contractor could not have foreseen the particular circumstance.
- 5.13. Accommodation is not included in the Price unless specifically detailed and the Service does not form any part of insurance repairs that may be being undertaken at the same time.
- 5.14. The Client will provide adequate parking facilities within a short distance of the Site.
- 5.15. The Client will provide maintenance is completed on schedule where specified.
- 5.16. The Client will ensure the Site is clear of obstructions or other hindrances to the performance of the Service and not obstruct HCRA or its contractor from placing protective measures where necessary to protect property.
- 5.17. HCRA will remove rubbish and equipment from the Site at the completion of the Service.
- 5.18. HCRA may suspend the Service immediately if the Client enters a vacated Site without prior permission and the accompaniment of an HCRA representative.

6. Consultation and Cooperation

- 6.1. The Client must cooperate and consult with and the HCRA:
- i. if it is unsure of what is required under this agreement and T&C;

- ii. on any discrepancies identified on documentation issued to the Client;
 - iii. in advance if the Client foresees that it will have difficulty meeting the Price or any instalment payment on or before the due date.
- 6.2. HCRA will cooperate and consult with the Client in advance if it is unable to complete the Service or schedule of works by the specified time in the Quotation or New Quotation or within a reasonable time if no deadline has been specified.

7. Statements and Representations on Behalf of the AJ Grant Group

- 7.1. Nothing in this agreement shall be construed to constitute a partnership or joint venture between the parties.

8. Warranties

8.1. Warranty Guarantee

- i. HCRA or its contractors warrant that on the date of acceptance of these T&C and on each subsequent engagement, that:
 - the Service will be performed in a proper and professional manner and in accordance with these T&C and the applicable Service, scope of works and schedule of works;
 - all materials supplied will be in good condition and suitable for the purpose for which they are used and that, unless otherwise stated in the Quotation or New Quotation, will be new;
 - the Service will be done in accordance with, and will comply with, any applicable law;
 - the Service will be done with due diligence and within the time stipulated in the Quotation, New Quotation, schedule of works, or if no time is stipulated within a reasonable period of time; (together, the Warranty Guarantee

8.2. Extension of Manufacturer's Warranty

- i. HCRA warrants that all materials and parts supplied or installed by their employees, representatives or contractors are supplied or installed on the same terms and conditions as the applicable manufacturer's warranty.

8.3. Loss that flows from a breach by the Client

- i. In any addition to any other rights that HCRA may have, the Client acknowledges and agrees that a breach of these terms and conditions may cause serious damage to HCRA and may affect the procurement of future earnings. The Client agrees that the AJ Grant Group is justified in seeking restitution for damage to reputation and loss of business resulting from a breach of these terms and conditions by the Client.

9. Use of Contractors

9.1. The use of a contractor by HCRA to perform the Service is authorised provided:

- i. HCRA has notified the Client of the details of the contractor prior to the commencement of the Service by the contractor;
- ii. the contractor, their directors, officers, employees, agents and representatives are pre-qualified and compliant with or have viewed, agreed and comply with:
 - the AJ Grant Group WHS;
 - any client-specific on-boarding, induction, training and certification programs; and
 - the AJ Grant Group Privacy Policy;

10. Variations

10.1. The Price does not include any items or additional work not listed in the Quotation.

10.2. The Service, including materials used may be varied in the following circumstances:

- i. at the request of the Client;
- ii. at the expense of HCRA if the variation is necessary through the fault of HCRA;
- iii. where unforeseen circumstances necessitate a variation and an experienced, competent and skilled contractor could not have foreseen the particular circumstance; or
- iv. where necessitated by an Authority that has the necessary legislative powers to require a variation and an experienced, competent and skilled contractor could not have foreseen the particular circumstance.

- 10.3. In circumstances where a variation is required, HCRA will inform the Client in writing noting the reason and cost of the Variation and seeking consent to proceed with the Variation.
- 10.4. The Variation will not be commenced until signed consent is received by HCRA. Following receipt of the Client's consent, work on the Variation will commence within a reasonable time and the Price will be adjusted to reflect the cost of the Variation.
- 10.5. The Client accepts that the completion date of the Service may be delayed while seeking consent for the variation and that work may completely cease until consent is gained in some circumstances.

11. Payment

- 11.1. The Client agrees to pay the Price on completion of the Service. If progress payments are specified, the Client agrees to pay the progress amount on or before the due date.
- 11.2. The Client authorises the AJ Grant Group to take payment for the Price or progress payment using the credit card details supplied or through Credit Card, Bpay or BPoint™.
- 11.3. The Client agrees to pay HCRA 10% of the Price ('the Deposit') within 24 hours of entering into this Agreement. The Client agrees that the Service will not commence until the Deposit has been received by HCRA.
- 11.4. The balance of the Price owing or the outstanding progress payments must be made to HCRA by one of the methods listed in 11.2 on completion of the Service if by Credit Card or within a further 48 hours if by BPay or BPoint.
- 11.5. In the event that a dispute arises where the Client is not satisfied with the Service and HCRA has paid for any part or all of the Services, the Client must pay to HCRA that part of the Price that is not in dispute. Notification of such a dispute will be provided in writing to HCRA within 7 days of the dispute arising.
- 11.6. In the event of a dispute, HCRA will attempt to resolve the matter to the satisfaction of the Client within 14 days of notification of the dispute. If the dispute cannot be resolved it will be arbitrated by an independent arbitrator agreed to by both parties within 30 days of the dispute notification.
- 11.7. In the interest of clarity, subject to clauses 9.2 and 9.3, the Client will pay HCRA either all of the agreed progress payments or in a single payment, the Price at the completion of the Service.

12. Confidentiality, Privacy and Intellectual Property

- 12.1. HCRA agrees to keep confidential information of the Client secure and concealed except to the extent that it is required by law to disclose it.
- 12.2. HCRA agrees not to use, copy or record the confidential information of the Client except as is strictly necessary in the ordinary and proper course of its business.
- 12.3. HCRA will ensure that its directors, officers, employees, agents and any contractors comply with all laws relating to the privacy of information particularly information relating to the Client.

13. Termination

- 13.1. This agreement continues until the particular Service for which the Client has engaged HCRA is completed and the Price paid or if terminated earlier, in accordance with the provisions of this agreement. For the avoidance of doubt, this agreement will only operate for each specific Service.
- 13.2. However, this agreement can be terminated by HCRA without notice if at any time the Client or any of its directors, officers:
- i. is or becomes in breach of any of the terms and conditions of this agreement;
 - ii. acts dishonestly in relation to any matters in this agreement;
 - iii. becomes or in the reasonable opinion of HCRA is in jeopardy of becoming subject to any form of bankruptcy proceedings or insolvency administration;
 - iv. dies or becomes incapacitated by illness or injury from performing the Client's obligations under this agreement and the Client or their legal representative is unable to provide assurances of payment satisfactory to HCRA.
- 13.3. Actions on Termination
- i. If this agreement is terminated, then HCRA will do the following:
 - advise the Client in writing of the termination of the Service; and
 - remove all equipment and unused materials from the site of the Service.
- 13.4. If this agreement is terminated in accordance with clause 11.2, the Client agrees that HCRA is entitled to seek recovery of any unpaid money in relation to the Service in a Court of competent jurisdiction along with its costs of recovering such money on an indemnity basis.

14. Refunds

- 26.1 The Client is entitled to a replacement or a refund for a major failure and for compensation for any other reasonably foreseeable loss or damage to goods supplied by HCRA. The Client is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 26.2 The Client is entitled to a refund for the Service or part of the Service where HCRA is unable or unwilling to deliver the Service or that part of the Service as the case may be. In the interests of clarity, a total refund will be given where the Service is not delivered in its entirety, otherwise a partial refund will be given for the amount of that part of the Service affected.

15. Miscellaneous Provisions

- 15.1. If any GST or any other tax applies to the Service, the Client will be provided with a tax invoice and the Client will pay the GST as applicable.
- 15.2. This agreement is governed by the laws of the New South Wales and the Courts of New South Wales will have non-exclusive jurisdiction to adjudicate any disputes.
- 15.3. Depending on the State or Territory, additional documentation may be required. HCRA will notify the client if this is a requirement and will supply the necessary documentation.
- 15.4. These T&C replace any previous agreement governing the relationship between the Client and HCRA.
- 15.5. All previous negotiations, understandings, representations, warranties, memoranda or commitments in relation to, or in any way affecting, the subject matter of this agreement are merged in and superseded by this document.
- 15.6. This document embodies the entire understand and agreement between the parties as to the subject matter of this document.
- 15.7. The Client consents to the AJ Grant Group using information supplied by the Client for the purposes of research and marketing: I Agree.

Client Agreement: _____