

# **QUIK-COOL - CONDITIONS FOR PROVIDING SERVICE AND SUPPORT**

Unless otherwise agreed in writing, the terms and conditions appearing below (**Conditions**) apply to the provision by Quik-Cool Australia Pty. Ltd. A.C.N. 606 482 580 (**Quik-Cool**) of all installation, service work, repairs and any other services provided to a person or organisation (**Customer**), including the supply of those parts and materials described in the Job Description document given to the **Customer** to which these **Conditions** are annexed (**Services**).

By engaging Quik-Cool to provide Services, the **Customer** agrees to be bound by these **Conditions**, whether such engagement is communicated orally or in writing.

## **Terms of Payment**

### **Payment Terms**

Payment for the Services shall be made (without any deduction, retention or set-off):

- unless agreed in writing in advance, **immediately on** receipt of a tax invoice from Quik-Cool following **completion** of the Services; or
- if agreed by Quik-Cool in writing in advance, then within 30 days of the date of invoice; or
- if the Services are carried out over a period exceeding one month, then on a pro rata monthly basis within 30 days of the date of invoice.

### **Interest for Overdue Payments**

Amounts outstanding after the due date shall bear interest calculated daily at the pro rata equivalent rate equal to the Reserve Bank of Australia indicator rate for a small business variable overdraft at the due date for payment plus 2% per annum.

### **Insurance Claims**

If the Services relate to a possible claim by the **Customer** under a policy of insurance:

- it remains the **Customer's** responsibility to pay Quik-Cool in accordance with these **Conditions**; and
- Quik-Cool's entitlement to payment:
  - is not conditional on the success (or otherwise) of the **Customer's** claim; and
  - shall not be delayed by any delay in an insurer's payment to the **Customer** of any proceeds of insurance.

## **Quik-Cool's Warranty**

### **Statutory Guarantees**

Quik-Cool acknowledges that applicable state and federal laws, including without limitation, the *Australian Consumer Law* contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), (**Laws**) impose statutory guarantees and warranties in relation to the Services and it is agreed that:

- to the extent of any inconsistency, and to the extent that those **Laws** may not be excluded or modified, those **Laws** override these **Conditions**; and
- to the extent permitted by **Law**:
  - the **Customer's** rights in respect of the Services are confined to these **Conditions**;
  - those rights, conditions, warranties and liabilities imposed or implied by such **Laws** are excluded;
  - the liability of Quik-Cool shall be limited to either supplying the Services again or paying the costs of having the Services supplied again (at its option);
  - Quik-Cool is not liable to **Customer** for any loss of profits, loss of revenue, loss of reputation, loss of opportunity or other consequential loss; and
  - Quik-Cool is not liable for any loss or damage suffered by a third party.

### **Quik-Cool's Warranty Period**

Subject to the *Limitations of Quik-Cool's Warranty* set out below, Quik-Cool warrants that the Services will be free from defects in workmanship and materials:

- in the case of Quik-Cool's supply of new equipment, for a period of 12 months after such delivery/installation; and
- in the case of Quik-Cool's supply of second-hand equipment, for a period of three months after delivery/installation; and
- in the case of repairs of the **Customer's** equipment by Quik-Cool, for a period of three months after such repairs (in each case: **Warranty Period**).

### **Limitations of Quik-Cool's Warranty**

Quik-Cool's warranty set out above does not apply:

- unless Quik-Cool is notified of the defect in the Services within Quik-Cool's **Warranty Period** specified above;
- to the replacement of light globes, glass or plastic components, filters, fuses, drive belts, refrigerant or lubricants (unless Quik-Cool is directly responsible for their damage);
- if any identification serial number or installation plate attached to equipment has been altered, rendered illegible or removed;
- if any equipment has been:
  - subject to misuse, abuse, damage, collision/impact or accident;
  - connected to improper, inadequate or faulty power supply, water supply or drainage service;
  - operated using incorrect, insufficient or contaminated lubricants, coolants, refrigerants or additives (unless provided/supplied by Quik-Cool as part of the Services);
  - installed, maintained or operated contrary to instructions from Quik-Cool (or a manufacturer);
  - serviced, repaired, altered, moved, relocated (since the provision of the Services) by any person other than Quik-Cool;
  - used for any purpose other than that for which it was intended;
  - subjected to operating conditions which are different to those advised to Quik-Cool;
- to damage to any equipment arising from corrosion, deterioration or the like contributed to by:
  - abnormal temperatures;
  - the introduction of foreign matters; or
  - the physical or chemical properties of water, steam or chemical compounds in or around the equipment,(unless Quik-Cool was notified of such contributing factors before the provision of the Services).

### **Quik-Cool's Warranty Work**

If Quik-Cool is notified during the **Warranty Period** of a defect in any part of the Services, Quik-Cool agrees to either repair or replace equipment or re-perform the Services (at its option) within a reasonable period after notification (**Quik-Cool's Warranty Work**), having regard to:

- the nature of the work to be performed;
- the availability of parts and materials;
- the location of the equipment; and
- the availability of staff.

### **Consumer Protection**

Our (Quik-Cool's) services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract\*.

## **Customer's Responsibilities**

The **Customer** must:

- give reasonable access to enable Quik-Cool to carry out:
  - the Services; and
  - Quik-Cool's **Warranty Work**; and
- pay any additional costs (labour, transport, travel, accommodation or communication) incurred by Quik-Cool if the **Customer** requires the Services or any of Quik-Cool's **Warranty Work** to be performed by Quik-Cool either:
  - outside normal working hours; or
  - at a location other than the premises where the Services were first performed or any other premises agreed to by Quik-Cool in its discretion.

### **Customer's Insurance**

The *Customer* warrants to *Quik-Cool* that the *Customer* shall at all times maintain adequate insurance against product loss, spoiling, loss of profits and other consequential losses arising from the breakdown or failure to perform of any equipment associated with the *Services*.

### **Delay**

*Quik-Cool* is not liable to the *Customer* or to any other person for any loss or damage arising out of any delay in the performance of either the *Services* or any of *Quik-Cool's Warranty Work*, if such delay is directly or indirectly attributable to strikes, lock-outs, industrial disputes, accidents, fire, flood or any other reason beyond its control.

### **GST**

The amount specified to be payable for the *Services* will be an amount exclusive of GST unless expressly stated to include GST.

- A party who is the recipient of a taxable supply made under these *Conditions* must pay the amount of the GST on the taxable supply in addition to any other amount (excluding GST) that is payable for that taxable supply at the same time and in the same manner as it is required to pay the amount due for the taxable supply.
- A party making a taxable supply to another party must issue a tax invoice to the recipient in accordance with the GST Law, setting out the amount of the GST payable by the recipient at, or prior to, the time the recipient is required to pay the amount due for the taxable supply, unless the recipient is able to issue a recipient created tax invoice.

In these *Conditions* GST, GST Law, tax invoice, recipient created tax invoice, supply and taxable supply have the meanings defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

### **Entire Agreement**

It is acknowledged that the entire agreement between *Quik-Cool* and the *Customer* in respect of the provision of the *Services* is contained within these *Conditions*, any quote issued by *Quik-Cool* and the Job Description document to which these *Conditions* are annexed.