

## 1. The contract

1.1 The Customer acknowledges and agrees that it has read and understood, and agrees to, these terms and conditions for the operation, establishment and use of a business credit account ("Account").

1.2 The execution of the application for an Account ("Application") constitutes an offer by the Customer to acquire and use an Account on the terms and conditions set out in this document.

1.3 If JB Trenchless approves the Application, such approval will constitute acceptance of the offer and will create a contract between JB Trenchless and the Customer on these terms and conditions ("Contract").

1.4 The parties acknowledge and agree that the Account may be used as a means for transacting payments and other amounts payable by the Customer to JB Trenchless for the provision of a range of goods or services provided by JB Trenchless under separate terms and conditions.

## 2. Credit enquiries

For the purpose of considering the Application, and at any time during the term of the Contract, the Customer authorises JB Trenchless to make such enquiries as JB Trenchless may require to be satisfied as to the creditworthiness of the Customer. The Customer agrees to provide signed written authorities addressed to the Customer's banker or other credit providers, credit bureaux or mercantile agencies as JB Trenchless requires from time to time.

## 3. Minimum Spend Threshold

JB Trenchless reserves the right to require the Customer to spend a minimum of \$1000 per month to obtain products or services on credit (charged to the Account).

## 4. Credit limit

JB Trenchless specifies the maximum (GST – inclusive) amount that may be charged to the Account over a particular period ("Credit Limit"). The Customer's Credit Limit is subject to review at any time by JB Trenchless. JB Trenchless may, on request in writing by the Customer, agree in writing to increase or decrease the Credit Limit. The balance of the Account at any time must not exceed the Credit Limit. JB Trenchless is not responsible for any loss or damage whatsoever or howsoever caused arising from the refusal by JB Trenchless to supply the Customer with any products or services on credit because the Credit Limit has been exceeded. The Customer agrees to immediately pay the amounts charged to the Account for any products or services supplied by JB Trenchless in excess of the Credit Limit, whether or not demand for payment has been made by JB Trenchless.

## 5. Authorised and unauthorised transactions

The Customer is responsible for and indemnifies JB Trenchless against any unauthorised use of the Account. The Customer must notify JB Trenchless in writing of any unauthorised transactions on the Account immediately after the Customer becomes aware of them. The Customer is not responsible for any unauthorised use of the Account after JB Trenchless receives written notification of the unauthorised use.

## 6. Terms of payment

6.1 The Customer agrees to pay JB Trenchless no later than 30 days from the date of issue of the tax invoice/adjustment note of the amounts set out therein.

6.2 Payment of the amount specified in 6.1 will be in Australian Dollars (AUD).

6.3 Payments may not be made by franking machine imprint.

6.4 Tax invoices/adjustment notes are delivered to the Customer at the address specified by the Customer for that purpose in the Application.

6.5 Where the Customer has defaulted in its payment obligations under this Contract, any amounts owing by the Customer to JB Trenchless in connection with this Contract may be deducted from any fee payable by JB Trenchless to the Customer under any other contract.

6.6 JB Trenchless will charge certain fees (if applicable) which are detailed at [auspost.com.au/business/credit-accounts.html](http://auspost.com.au/business/credit-accounts.html) or on request from JB Trenchless.

## 7. Proof of supply of products or services

A certificate setting out details of the amount owing and any other matters relating to the Account signed by an officer of JB Trenchless is sufficient evidence (in the absence of manifest error) of the supply of products or services by JB Trenchless to the Customer. This certificate may be used in court proceedings.

## 8. Transaction errors

Any complaint made by the Customer that a transaction recorded on the Customer's tax invoice / adjustment note is incorrect must be advised to JB Trenchless in writing within seven days of the issue of the tax invoice / adjustment note. If this does not occur, the Customer will be assumed to have accepted the transactions recorded in the tax invoice/adjustment as correct (absent any manifest error). If part of the amount set out in the tax invoice / adjustment note is in dispute, the Customer agrees to pay the undisputed amount within the time period specified in clause 6.1.

## 9. Security for performance of the Contract

### 9.1 Bank guarantee

The Customer may be required to provide to JB Trenchless (either prior to the approval of the Application or during the term of the Contract), a bank guarantee (in a form acceptable to JB Trenchless) to secure the Customer's performance of the Contract.

### 9.2 Personal Property Securities Act (PPSA)

If JB Trenchless determines that this Contract (or a transaction in connection with it) is or creates a security interest for the purposes of the PPSA, the Customer agrees to do all things which JB Trenchless considers necessary for the purposes of registering its security interest, including providing consents, signing and producing documents, or supplying information.

### 9.3 Other forms of security

As a term of its approval of the Application (or at any time during the term of the Contract), JB Trenchless may require the Customer to provide other security for performance under the Contract. For example, if the Customer is a company, a guarantee (in a form acceptable to JB Trenchless) may be required from each director or shareholder of the Customer or any other person including the spouse or relative of that director or shareholder or from any associated or related entity of the Customer.

#### **10. Warranties**

10.1 The Customer warrants that:

- (a) all statements made and documents provided in connection with the Application and all representations that the Customer has made or may make during the term of the Contract to JB Trenchless are true and correct; and
- (b) the Account is required for the Customer's business or commercial purposes and will not be used for personal, domestic or household purposes.

10.2 The Customer acknowledges that JB Trenchless relies on the correctness of these warranties in approving the Application and continues to rely on these warranties in its further dealings with the Customer.

#### **11. Indemnity**

The Customer indemnifies JB Trenchless against any liability, loss, costs, charges and expenses JB Trenchless suffers in connection with the Contract or the Account, except to the extent arising directly as a result of fraud or wilful misconduct on the part of JB Trenchless.

#### **12. Changes in address and other particulars**

The Customer must notify JB Trenchless within seven days of any change in the constitution, ownership, membership or control of the Customer, or any change or proposed change in the Customer's address. Despite the occurrence of any of these changes, the Customer's obligations under the Contract continue. However, JB Trenchless may require a new application to be executed.

#### **13. Termination / Suspension**

13.1 JB Trenchless may, acting reasonably, at any time suspend or terminate the Customer's Account on seven days' written notice to the Customer.

13.2 JB Trenchless may suspend or terminate the Contract immediately by written notice to the Customer where:

- (a) JB Trenchless was induced by fraudulent misrepresentation on the Customer's part to approve an application for any account with the Customer; or
- (b) the amount charged to a Customer's Account exceeds the Credit Limit at any time without the prior written approval of JB Trenchless; or
- (c) any amount charged to the Account is due and unpaid (amounts disputed in accordance with clause 8 are not considered due until the dispute is rectified); or
- (d) in the reasonable opinion of JB Trenchless any change in circumstances, including, without limitation, changes in the Customer's constitution, ownership, membership, control status or ability to provide security for payment of amounts which have or are likely to be charged to the Account, makes the continuance of the Contract undesirable or unsatisfactory; or
- (e) the Customer becomes, threatens or resolves to become or is in jeopardy of becoming subject to any form of insolvency administration
- (f) the Customer being a partnership dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving; the Customer being a natural person, dies; or the Customer ceases or threatens to cease conducting business in the normal manner; or
- (g) the Customer uses the Account for any non-commercial purposes including, without limitation, for personal, domestic or household purposes; or
- (h) the Customer is otherwise in default under this Contract.

13.3 The customer may terminate this Contract by not less than seven days' prior written notice to JB Trenchless.

13.4 If JB Trenchless suspends or terminates the Account under either clauses 13.1 or 13.2, or the Customer terminates this Contract under clause 13.3, the balance of the Account and any amounts incurred but not then billed shall become due and payable by the Customer to JB Trenchless.

13.5 (a) If JB Trenchless suspends or terminates the Account under clauses 13.2(a), (b), (c), (e), (f) or (g), or the Customer terminates this Contract under clause 13.3, the Customer must also pay to JB Trenchless any amounts reasonably incurred or expended by JB Trenchless in exercising its rights under the Contract; (b) If JB Trenchless suspends or terminates the Account under clauses 13.1 or 13.2(d), the Customer must also pay to JB Trenchless any amounts directly and necessarily incurred by JB Trenchless in connection with the suspension or termination. For the purposes of this clause 13.5(b), the Customer may request a written summary of the amounts incurred by JB Trenchless.

#### **14. Notice**

14.1 Notices served under the Contract may be delivered by post, or by email to:

- (a) the Customer - at the postal address provided in the Application or notified in writing by the Customer to JB Trenchless in accordance with clause 12; (b) JB Trenchless - at its head office as advised to the Customer in the approval.

14.2 Notice is taken to be given.

- (a) in the case of ordinary post, in accordance with JB Trenchless' published delivery standards for postal articles between the place of posting and the place of receipt; or

#### **15. Variation**

15.1 JB Trenchless may vary the terms and conditions of the Account with respect to future transactions between JB Trenchless and the Customer:

- (a) by agreement between JB Trenchless and the Customer; or
- (b) unilaterally by JB Trenchless giving to the Customer not less than seven days' prior written notice specifying the variation and the date on which the variation becomes effective.

15.2 Notice of the variation under this clause need not be sent separately and may be sent with the Customer's statement of account or as part of any other correspondence.

#### **16. Assignment**

The Customer must not assign the Contract without the consent in writing of JB Trenchless, which shall not be unreasonably withheld.

#### **17. Waiver**

Failure by either party to enforce its obligations under the Contract does not constitute waiver of that party's rights unless it is in writing, nor does it affect any other obligation of the other party, including obligations to make any further payments as and when they fall due.

#### **18. Governing law**

The Contract is made in the state of Victoria and is governed by the laws in force in that state.