

JP ELECTRICAL LIMITED

TERMS AND CONDITIONS FOR COMMERCIAL CUSTOMERS

These are the standard "terms and conditions" of JP Electrical Limited ("JP Electrical") which form the basis upon which JP Electrical will provide you with electrical services. These terms and conditions will apply unless varied by JP Electrical and you, as customer, in writing.

Any instructions received by JP Electrical for the provision of electrical services to you and any acceptance by you of a quote given by JP Electrical constitute acceptance by you of these terms and conditions.

1. Quotes, Estimates and Costs of Electrical Services

- 1.1 Quotes are valid for 30 days from the date of the quote. All quotes are subject to these Terms and Conditions and the *Construction Contracts Act 2002* ("CCA"). JP Electrical reserves the right to change any quoted price if there is any variation to the electrical services quoted for.
- 1.2 Estimates are approximate costs only and JP Electrical reserves the right to alter the estimate by 10% either way.
- 1.3 Unless a quote or estimate is given prior to commencement of the supply of electrical services, the price for all electrical services shall be the price stated on any invoice or payment claim.
- 1.4 Prices and quotes given by JP Electrical exclude GST and any other taxes, unless these are expressly included in the price.
- 1.5 Electricians are charged out at \$65 per hour plus GST unless agreed otherwise.
- 1.6 You may request variations or additional work to be completed. Before proceeding with a variation we may require you to confirm each variation, and its pricing, in writing.

2. Payment

- 2.1 JP Electrical may submit an invoice or detailed payment claim at intervals of not less than one month for work performed up to the end of each month. The value of the work so performed shall include the reasonable value of authorised variations, whether or not the value as such variation has been finally agreed between JP Electrical and you, and the value of materials delivered by JP Electrical but not yet installed. Payments shall be made within 20 days of each invoice or monthly payment claim.
- 2.2 Payment can be by cash, direct credit or cheque.

3. Default on Payment

- 3.1 Interest on overdue payments shall accrue from the date when payment becomes due until the date of payment at a rate equal to the then current interest rate charged by ANZ Bank New Zealand Limited on business overdrafts, plus a margin of 2% per annum and such interest shall compound monthly from the date on which payment is due until payment is received in full.

4. Construction Contracts Act 2002 ("CCA")

- 4.1 Our quotes and invoices are subject to the CCA. If you fail to make payment as prescribed by these terms and conditions and the CCA we have the right to suspend all work, and to take further action as set out in the CCA.

- 4.2 You hereby expressly acknowledge that:

- (a) JP Electrical has the right to suspend work within 5 working days of written notice of its intention to do so if a payment claim is served on you and:

- (i) The payment is not paid in full by the due date for payment and no payment schedule has been given by you; or

- (ii) A scheduled amount stated in a payment schedule issued by you in relation to a payment claim is not paid in full by the due date for its payment; or

- (iii) You have not complied with an adjudicator's notice that you must pay an amount to JP Electrical on a particular date or;

- (iv) JP Electrical has given written notice to you of its intention to suspend the carrying out of construction work under the construction contract.

- (b) If JP Electrical suspends work, it:

- (i) Is not in breach of contract; and

4. Construction Contracts Act 2002 ("CCA") – 4.2(b) *continued*

- (ii) Is not liable for any loss or damage whatsoever suffered, or alleged to be suffered by you or by any person claiming through you; and
 - (iii) Is entitled to an extension of time to complete the contract; and
 - (iv) Keeps its rights under the contract including the right to terminate the contract

and may at any time lift the suspension, even if the amount has not been paid or an adjudicator's determination has not been complied with.

- (c) If JP Electrical exercises the right to suspend work, the exercise of that right does not:

- (i) Affect any rights that would otherwise have been available to JP Electrical under the *Contractual Remedies Act 1979*; or

- (ii) Enable you to exercise any rights that might otherwise have been available to you under the *Contractual Remedies Act 1979* as a direct consequence of JP Electrical suspending work under this provision.

5. Ownership and Risk

- 5.1 Ownership in any goods provided shall not pass to you until you have paid for the goods together with any other monies owing to JP Electrical.

- 5.2 Until payment to JP Electrical has been made, you acknowledge and agree that:

- (a) You are the fiduciary owner of the goods and shall only deal with them as agent for and on behalf of JP Electrical;

- (b) You will store the goods in such a way that it is clear they are the property of JP Electrical;

JP ELECTRICAL LIMITED

TERMS AND CONDITIONS FOR COMMERCIAL CUSTOMERS

5. Ownership and Risk – 5.2 continued

(c) You irrevocably give JP Electrical and its agents the right to enter upon your premises without giving notice and to search for and remove any of the goods without in any way being liable to you or to any person or company claiming through you;

(d) If you sell the goods prior to payment to JP Electrical for those goods, the proceeds of any resale will belong to JP Electrical and you must pay those proceeds into a separate account for which separate records are kept. In addition all claims which you hold against third parties shall be handed over to JP Electrical.

5.3 The risk in the goods shall pass to you upon delivery even though ownership of the goods may not have passed to you. If any goods are damaged or destroyed before ownership passes to you, JP Electrical is entitled to receive all insurance proceeds payable for such goods.

5.4 You agree that:

(a) These terms and conditions constitute a security agreement for the purposes of the Personal Property Securities Act 1999 (“PPSA”) over all goods supplied to you by JP Electrical in all present and after acquired goods and services as security for all your obligations to JP Electrical, which is registerable in the Personal Property Securities Register;

(b) JP Electrical may register a financing statement to perfect its security interest in the goods and you will sign any further documents and/or any information JP Electrical may reasonably require, to enable JP Electrical to register a financing statement;

(c) You waive your right to receive a copy of any verification statement(s) under the PPSA and agree that you will have no rights under the PPSA, the provisions of Part 9 of the PPSA which are for the benefit of you, or place obligations on JP Electrical, shall apply only to the extent that they are mandatory.

6. Warranty

6.1 Subject to the conditions of warranty set out in this clause, JP Electrical warrants that if any defect in any workmanship undertaken by JP Electrical becomes apparent and is reported to JP Electrical within 3 months of the delivery of the relevant electrical services (time being of the essence) then JP Electrical will (at its sole discretion) repair the defect or replace any relevant parts.

6.2 The conditions applicable to the above warranty are:

(a) The warranty shall not cover any defect or damage which may be caused or partly caused by or arising through:

(i) Failure on your part to properly maintain;

(ii) Failure on your part to follow any instructions or guidelines provided by JP Electrical;

(iii) Any use of any part or service otherwise than for any application specified on a quote or order form;

(iv) The continued use of any part or service after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user;

(v) Fair wear and tear, any accident or act of god.

(b) The warranty shall cease and JP Electrical thereafter in those circumstances be liable under the terms of this warranty if any product or service is repaired, altered or overhauled without JP Electrical’s consent;

(c) In respect of all claims, JP Electrical shall not be liable to compensate you for any delay in either replacing or repairing any parts or services or improperly assessing your claim;

(d) For any goods or services not manufactured by JP Electrical the warranty shall be the current warranty provided by the manufacturer of such goods and services. JP Electrical shall be under no liability whatsoever except for the express conditions as detailed and stipulated in the manufacturer’s warranty.

7. Privacy Act

7.1 You authorise JP Electrical to:

(a) Collect, retain and use any information about you, for the purpose of assessing your credit worthiness or marketing products and services to you; and

(b) Disclose information about you, whether collected by JP Electrical from you directly or obtained by JP Electrical from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by you.

7.2 You have the right to request JP Electrical for a copy of the information about you retained by JP Electrical and the right to request JP Electrical to correct any incorrect information about you held by JP Electrical.

8. General

8.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

8.2 JP Electrical shall be under no liability whatsoever to you for any indirect loss and/or expense (including loss or profit) suffered by you arising out of a breach by JP Electrical of these terms and conditions.

8.3 In the event of any breach of this contract by JP Electrical your remedies shall be limited to damages which under no circumstances shall exceed the price of the electrical services.

8.4 JP Electrical reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions then that change will take effect from the date on which JP Electrical notifies you of such change.

8.5 Neither party shall be liable for any default due to any act of god, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.

8.6 The failure by JP Electrical to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it effect JP Electrical’s right to subsequently enforce that provision.