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TERMS OF TRADE

A GENERAL

All trade, sales and work undertaken by John Ward Electrical (1997) Ltd are made on the following terms and any contract or supply arising will be subject to their inclusion.

These Terms of Trade shall be construed according to and governed by New Zealand law.

In the event of John Ward Electrical (1997) Ltd being employed as a Subcontractor, all contracted work being completed will be subject to the conditions of the Construction Contracts Act 2002.

B QUOTATIONS

- 1 Our quotations remain valid for 30 days. Prices quoted are based on the cost of labour and materials as specified (GST Exclusive). If between the dates of quotation and completion of work there are variations in these costs, the quote prices may be subject to amendment to provide for such variations.
- 2 Acceptance of our quote should be confirmed in writing, with accompanying order number, prior to commencement date. Verbal acceptances may be approved upon the agreement of both parties.
- 3 Receipt of an order for services from the client will be deemed to be acceptance by the client of the terms and conditions herein notwithstanding anything that may be stated to the contrary and in the Client's enquiries or on the client's order.

C TERMS OF PAYMENT

- 1 These terms of trade with John Ward Electrical (1997) Ltd and the Client are strictly nett and all invoices must be paid by the payment date or sooner upon the insolvency of the Client (20th month following invoice date).
- 2 If the service and or goods are not paid for in full by due date the supplier may:
 - (a) Forfeit any discount agreed to between the Supplier and the Client.
 - (b) Charge the Client interest (plus GST calculated thereon) calculated on a daily basis billable monthly on the outstanding balance of the debt from the due date until payment in full is made. Interest charged will be at a rate of 1.5% per calendar month or such other rate as notified to the Client by the Supplier from time to time.
 - (c) Charge the Client on a full indemnity basis the cost of:
 - (i) recovering or attempting to recover any outstanding debt;
 - (ii) repossessing or attempting to repossess any goods eligible for repossession pursuant to these terms of trade;
 - (iii) imposing and executing or attempting to impose and execute a possessory lien against any property of the Client eligible for such imposition and execution pursuant to these terms of trade;Costs charged pursuant to this subclause shall be payable upon demand and in the absence of such payment shall bear interest upon and subject to the same terms as apply to the failure by the Client to comply with payment for services and or goods supplied by due date.
 - (d) Stop supplying further services and or goods to the Client whilst monies remain owing to the Supplier beyond due date. The foregoing entitlement of the Supplier to suspend supplies of services and or goods shall apply notwithstanding any existing or subsequent contractual arrangement between the Supplier and the Client to the contrary.
- 3 Payment by cheque, other bills of exchange or promissory notes shall not be deemed to have been received by the Supplier (or its employees, contractors or Agent) until honoured.
- 4 The Supplier reserves the right at any time in its absolute discretion to decline to supply (at any time prior to delivery) services and or goods under these terms of trade involving the supply of services and or goods on a deferred payment

basis and in the event of the Supplier so declining the deferred portion these terms of trade shall not apply and instead services and or goods will only be supplied and delivered on a cash in advance basis.

- 5 The Client warrants that the Client is financially able to meet any commitments it makes pursuant to these terms of trade and any related contract for services and or goods supplied by the Supplier.

D OWNERSHIP

- 1 The property in and ownership of all goods supplied by the Supplier shall not pass to the Client until full payment in respect of the goods has been received by the Supplier (or its employees, contractors or Agent).
- 2 Where the property in goods supplied has not passed to the Client pursuant to clause 1:
- a) The Client shall hold the goods as the Bailee of the Supplier.
 - b) The Client may resell the goods to a third party as the agent of the Supplier conditional upon the Customer acting as fiduciary for the Supplier and keeping the full sale proceeds separate from any other money or financial instruments of the Client and accounting for same to the Supplier on due date.
 - c) The Client is authorised to incorporate unpaid for goods into other products provided they remain clearly identifiable.
- PROVIDED HOWEVER the Client shall be and remain responsible for and shall indemnify the Supplier, its agents and servants, against all liabilities to third parties that may result from on sale or mixing pursuant to clause 2 (b) or (c).
- 3 From the time of dispatch goods shall be at the Client's risk notwithstanding the property in the goods may not have passed to the Client. The Client shall insure the goods, and shall hold any proceeds of any such insurance in trust for the Supplier pending payment in full for the goods being made to the Supplier.
- 4 The Client authorises and permits the Supplier (or its employees, contractors or Agent) to enter into and onto with the exercise of reasonable force the Client's premises whether in whole or in part and similarly into and onto the premises of any third party where the Client is permitted entry to inspect and/or repossess any goods (for the purpose of resale in mitigation of loss suffered by the Supplier) held by the Client in contravention of these terms of trade. We may require you to facilitate registration of a Financing Statement under the Personal Securities Act 1999 to give us a Perfected Security in any goods supplied.
- 5 Should any of the above subclauses 1 – 4 inclusive or part thereof be held by a Court to be ineffective by virtue of non-registration, illegality or otherwise then such condition or part thereof shall deemed to be served from and without effecting the validity or enforceability of all the other terms and conditions of these terms of trade.

E WARRANTY & LIABILITY

- 1 No warranty or assurance whether express or implied is given by the Supplier (or its employees, contractors or Agent) that the services and or goods are fit for any particular purpose to which they may be put or utilised by the Client or any third party other than to the extent in writing between the Supplier and the Client.
- 2 Subject to clause 3 the Supplier (or its employees, contractors or Agent) shall not be liable for any direct or consequential loss or damage attributable to defects in the services and or goods, advice as to the suitability of services and or goods for any application or purpose, or for conditions or warranties which but for this sub clause may otherwise be expressed or implied by statute or at common law or otherwise which have not been agreed in writing between the Supplier and the Client.
- 3 Where liability is accepted in writing by the Supplier pursuant to clause 1 and 2 nonetheless the Supplier (or its employees, contractors or Agent) shall not be liable for any act, omission or failure (and the consequences thereof) to perform any term or condition entered into between the Supplier and the Client if such act, omission or failure arises from any cause reasonably beyond the control of the Supplier and without limiting the generality of the following are acknowledged as being reasonably beyond the control of the Supplier:
- (a) Any explicit or latent defect in any product supplied by the Supplier;
 - (b) Any error in any information or specification supplied by the Client to the Supplier in the provision of the services and or goods to the Client.
 - (c) Any failure by the Client to supply to the Supplier any information or specifications agreed or ordinarily required by the Supplier to enable the Supplier to supply the services or goods to the Client.
 - (d) The physical state and composition of any land, building, plant, equipment or machinery into or onto which any services are performed on and or goods are supplied by the Supplier;

- 4 The Client acknowledges that unless notified to the Supplier (or its employees, contractors or Agent) to the contrary in writing the Client is acquiring the services and or goods from the Supplier for the purpose of a business and agrees with the Supplier that the statutory guarantees and implied terms, covenants and conditions as contained in the Consumer Guarantees Act 1993 are excluded accordingly AND that all implied terms, conditions and warranties as contained in the sale of Goods Act 1908 are also excluded.
- 5 Notwithstanding any provision herein contained to the contrary, any restriction of liability imposed or sought to be imposed by the Supplier pursuant to these terms of trade and any other term herein which would otherwise be in conflict:
- (a) With the provisions of the Consumer Guarantees Act 1993 (and to the extent of such conflict): and
 - (b) With the provisions of the Electricity Act 1992 and any other legislation including subordinate legislation and other mandatory codes of practice derived from the foregoing (and to the extent of such conflict) is expressly excluded to the extent of the inconsistency.
- 6 Where a Client is not acquiring the services and or goods from the Supplier for the purpose of a business the Client acknowledges:
- (a) Receipt of a copy of these terms of trade;
 - (b) Receipt of oral advice from the Supplier (or its agent) relating to the effect and operation of clauses 2 and 3 of these terms of trade to the effect that:
 - (i) The Supplier reserves the right to attach a possessory lien against goods owned by the Client and in the possession of the Supplier (or its employees, contractors or Agent) in respect of which invoices for the provision of services and or goods by the Supplier remain unpaid;
 - (ii) The Supplier retains title to goods supplied until such goods are paid for in full;and that such retention of title and lien limits the Client's right to undisturbed possession of such goods accordingly.

F FORCE MAJEURE

John Ward Electrical (1997) Ltd cannot accept responsibility or liability for the delay in performing or failing to perform any obligation imposed on it where such delay or failure is caused by any cause beyond the Company's reasonable control. (Such as - damage caused directly or indirectly by weather conditions, labour disputes, strike, lockout, accident, fire, Act of God or the Queen's enemies, epidemic, blockade, inability to obtain fuel, power, raw materials, labour, transportation facilities, governmental laws or regulations, civil commotions, riots, crime or any events (whether similar or dissimilar nature) that are beyond our control).

G PRIVACY STATEMENT

- 1 John Ward Electrical (1997) Ltd respects the privacy of the Client. All information contained in enquiry submissions is treated as strictly confidential under the Privacy Act 1993, and is used exclusively by our company. We do not make our client data available to others.
- 2 The Client must notify the Supplier of any change in circumstances that may affect the accuracy of the information provided by them to us. If the Client is an individual, they have rights under the Privacy Act 1993 to access and request the correction of any personal information which we hold about them.

H CONDITIONS OF PREMISES

The Client will inform the Supplier of any hazards (as defined by the Health and Safety In Employment Act 1992) in the workplace to which the Supplier (or its employees, contractors, or agent) may be exposed or are likely to come into contact with while performing services and/or supplying goods to (or to the account of) the Clients.

The Client warrants that the structure of the premises or equipment in or upon the work is to be carried out is sound, and will sustain the installation and associated incidental work. John Ward Electrical (1997) Ltd shall not be liable for any loss or damage resulting from insufficient or defective foundations, walls or other structures, or damage resulting from subsidence, slippage or instability of land.

I ARBITRATION & DISPUTES

Should there be any dispute or difference arise in connection with work done or payments claimed by this company, or any matter pertaining to business between the Client and John Ward Electrical (1997) Ltd, both parties can refer the dispute to adjudication in terms of Part 3 of the Construction Contracts Act 2002 (CCA), or to the Master Electricians Association of which we are a member for settlement through that Association's Disputes Procedure. For the purpose of s. 33(1)(c) of the CCA, the Master Electricians Association will be the nominating body.