

TERMS AND CONDITIONS
Dimtek Electrical Services Pty Ltd (ABN 97 711 376 847)

1 General

These terms and conditions ('Terms') plus any implied terms which cannot be excluded are the whole agreement between the applicant named in the Credit Application or (if there is no Credit Application) the customer named in the quotation ('Customer or you/your') and Dimtek Electrical Services Pty Ltd acting as trustee for The J and G Dimitrievski Family Trust ABN 97 711 376 847 ('we/us/our'). No other contractual terms of a Customer (such as on a purchase order or otherwise) apply and, if provided, they don't constitute a counteroffer. After you have received a copy of these Terms, if you place an order for the supply of all or a portion of goods or services supplied under these Terms ('Goods/Services'), you will be deemed to have accepted these Terms and they will apply to the exclusion of all other written agreements with us.

2 Credit Terms

- 2.1 We reserve the right to require payment of a deposit prior to commencement of the Services.
- 2.2 If we do not extend credit to you, payment is due on or prior to seven (7) days from the date of the invoice, unless we tell you in writing otherwise.
- 2.3 If we extend credit to you, payment is due on or prior to thirty (30) days from the date of invoice unless we tell you in writing otherwise.
- 2.4 If we don't receive payment on the due date, we may:
- 2.4.1 Charge interest (as liquidated damages) at the rate of two percent (2%) above the rate of interest fixed from time to time under Section 2 of the Penalty Interest Rates Act 1983; and
- 2.4.2 Suspend or discontinue supply of the Services to you and/or suspend or cancel your account with us.
- 2.5 We may revoke our express or implied approval for giving you credit at any time.
- 2.6 We can set-off against any money owing to you amounts owed to us by you on any account whatsoever.
- 2.7 Any payments received from you on overdue accounts will be applied first to satisfy interest which may have accrued, second to reasonable expenses and legal costs, and then to principal.
- 2.8 You are liable for all reasonable expenses (including contingent expenses such as debt collection commission) and legal costs (on a full indemnity basis) incurred by us for enforcement of obligations and recovery of monies due from you to us.
- 2.9 All sums outstanding become immediately due and payable by you to us if you make default in paying any sums due to us, you become bankrupt or commit any act of bankruptcy, or have judgment entered against you in any court, notwithstanding the provisions of any other clause in these Terms.

3 Quotations and Pricing

- 3.1 Prices charged will be according to a current quotation or determined by us by reference to our standard prices in effect at the date of the order. Subject to clause 17, we reserve the right to increase the prices, however, we will not change any prices for an existing order that has been accepted by us; the prices that apply to the order are the prices that applied at the time you placed the order. A

quotation shall not constitute an offer and will remain valid only for thirty (30) days from the date of the quotation. A quotation is subject to variation without notice to you prior to your acceptance of the quotation. You are responsible for ensuring the accuracy of all specifications, details, sizes and quantities which form the basis of a quotation. We do not accept any responsibility for any errors in such specifications, details, sizes and quantities and shall fulfil the order in conformity with the information supplied by you.

- 3.2 Documents requiring signature may be signed in electronic form and are binding from the time a person affixes a signature on your behalf.
- 3.3 Prices in quotations don't include (unless specified) any statutory tax (such as GST) and not allowed for by us in calculating the price.

4 Supply of Services

- 4.1 We shall not be liable for delay in supply of the Services. If we quote a time for supply of the Services, it's an estimate only. We can stop supply if you fail to comply with these Terms.
- 4.2 You agree that you are obliged to and shall pay for the Services on the due date, even if supply of the Services is made after the agreed date for supply and notwithstanding that the Services may not yet be supplied.
- 4.3 We may refuse to supply any order in our absolute discretion (except where these Terms constitute a small business contract for the purposes of the Australian Consumer Law ('Small Business Contract')) and may make acceptance of an order conditional upon receiving a satisfactory credit assessment of the Customer.

5 Property

Until full payment has been made for all Goods and Services, and any other sums in any way outstanding from you from time to time:

- 5.1 Title to the Goods shall not pass to you and you shall hold the Goods as bailee for us (returning the same to us on request). The Goods shall nevertheless be at your risk from the time of supply and you must insure the Goods from the time of supply.
- 5.2 You are only authorised to sell the Goods (or any portion of them) to third parties as our fiduciary agent provided that there shall be no right to bind us to any liability to such third party by contract or otherwise. All payments (direct or indirect) received from such third parties by you for the Goods (or any portion of them) shall be held on trust for us pursuant to the fiduciary relationship, except where clause 7.6 applies.
- 5.3 If you incorporate or transform the Goods (or any portion of them) into any other goods or products produced by you (or a third party), then you must hold a proportion of any payment ('relevant proportion') received by you for such goods or products on trust for us. You expressly acknowledge that the relevant proportion shall be equal to the dollar value of the Goods incorporated or transformed.
- 5.4 Unless the Goods become fixtures or fittings, we are irrevocably authorised to enter any premises where the Goods are kept, and to use your name and to act on your behalf, if necessary, to recover possession of the Goods without liability for trespass or any resulting damage.

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6 General Lien

In addition to any lien to which we may, by statute or otherwise, be entitled, we shall in the event of your insolvency, bankruptcy or winding up, be entitled to a general lien over all property or goods belonging to you in our possession (although all or some of such property or goods may have been paid) for the unpaid price of any Goods or Services supplied to you under this or any other contract.

7 Personal Property Security Interest

7.1 You grant a security interest in the Goods and the proceeds (as defined in the Personal Property Securities Act 2009 ('PPSA')) to secure the obligation to pay the purchase price of the Goods and other of your obligations to us under this agreement (together the "Indebtedness"). You warrant that the Goods are not purchased for personal, domestic or household purposes.

7.2 Where the Goods and/or proceeds are not readily identifiable and/or traceable or their recoverable value is insufficient to pay the Indebtedness, the security interest shall also extend to all the goods present and after acquired by the Customer, of which the Goods form part, to the extent required to secure the Indebtedness.

7.3 You waive any right to receive notice in relation to any registration or amendment to a registration on the Personal Property Security Register ('PPSR'). At your own expense, you will provide all reasonable assistance and relevant information to enable us to register on the PPSR and generally to obtain, maintain, register and enforce the security interests created by this agreement.

7.4 Any payments received from you shall be deemed to be made and applied by us in the following order (unless we otherwise determine): (1) to any obligation owed by you which is unsecured, in the order in which the obligations were incurred; (2) to any obligations that are secured, but not by a purchase money security interest ('PMSI'), in the order in which those obligations were incurred (3) to obligations that are secured by a PMSI, in the order in which those obligations were incurred.

7.5 Until you have paid all money owing to us, you must at all times ensure that (1) all Goods, while in your possession, can be readily identified and distinguished, and/or (2) all proceeds (in whatever form) that you receive from the sale of any of the Goods are readily identifiable and traceable.

7.6 Subject to clause 5.2, if the Goods are held by you as inventory (as defined in the PPSA), then you may sell or lease the Goods in the ordinary course of business. Otherwise until you have paid all money owing to us you must not sell or grant a security interest in the Goods without our written consent.

7.7 To the extent permissible by law, you agree that the following provisions of the PPSA will not apply and you will have no rights under them: Section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notice to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142; section 143.

7.8 Section 115(7) of the PPSA allows for the contracting out of provisions of the PPSA, the following provisions of the PPSA will not apply and the Customer will not have any rights under them: section 127; section 129(2),(3); section

130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.

7.9 Unless otherwise agreed and to the extent permitted by the PPSA, the parties agree not to disclose any information of a kind referred to in section 275(1) of the PPSA to an interested person or any other person. You waive any right you may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorise the disclosure of the above information.

8 Cancellations and Claims

8.1 We will not accept cancellations or partial cancellation of an order unless we have first consented in writing to such cancellation or partial cancellation and unless a cancellation charge has been paid which, as determined by us, will indemnify us against direct loss, without limitation.

8.2 Subject to any rights you may have under the Australian Consumer Law, all complaints, claims, or notifications of incomplete or defective Goods/Services or Goods/Services that do not comply with your order must be submitted to us in writing within seven (7) business days of supply of the Services. We may issue a refund or credit note in respect of the Goods/Services. Otherwise, you are deemed to have accepted the Goods/Services and shall not refuse to pay for the Goods/Services on the basis that they were incomplete or defective or do not comply with your order.

9 Privacy Act 1988 ('Privacy Act')

9.1 To enable us to assess your application for credit, you authorise us: (1) to obtain from a credit reporting agency/body a consumer or commercial credit report containing personal information about you and any guarantors; and (2) to obtain a report from a credit reporting agency/body and other information in relation to your commercial credit activities, and (3) to give to a credit reporting agency/body information including identity particulars and application details.

9.2 You authorise us to give to and obtain from any credit provider named in the accompanying Credit Application and credit providers that may be named in a credit report issued by a credit reporting agency/body information about your credit arrangements. You understand that this information can include any information about your credit worthiness.

9.3 You understand that information can be used for the purposes of assessing your application for credit, assisting you to avoid defaulting on your credit obligations, assessing your credit worthiness and notifying other credit providers and credit reporting agencies of a default by you under these Terms.

10 Notification

You must notify us in writing within seven (7) days of: (1) any alteration of your name or ownership; (2) the issue of any legal proceedings against you; (3) the appointment of any provisional liquidator, liquidator, receiver, receiver manager or administrator to you; and (4) any change in the ownership of your business name. You agree that you shall be liable to us for all Services supplied to the new owner by us until notice of any such change is received.

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11 Warranties

- 11.1 No warranties except those implied and that by law cannot be excluded are given by us in respect of the Goods or Services supplied.
- 11.2 You acknowledge and warrant that you have relied on your own skill and judgment or, alternatively, on the skill and judgment of tradesmen and professional advisers retained by you to provide advice and assistance on the suitability of the Goods or Services for specific purposes and procedures and, in this respect, you shall indemnify us from and against any suit, claim, demand or compensation which, but for these Terms, you may have had against us, except if you are a consumer for the purposes of the Australian Consumer Law ('Consumer') or these Terms are deemed to be a Small Business Contract.
- 11.3 You warrant to us that you are purchasing Goods or Services as the principal and not as an agent.

12 Limitation of Liability

Our total liability arising under or in relation to this Agreement or in connection with the performance or breach of our obligations under this Agreement, whether such liability is based in contract, indemnity, warranty or tort (including negligence of any kind), shall not exceed the higher of \$20,000,000, or the cost of rectification of the works.

13 Termination

We may terminate this Agreement if you do any of the following, which is not remedied within 7 days of written notice given by us:

- 13.1 Committing a material breach of these Terms which includes but is not limited to the failure to make payment for our Services by the due date;
- 13.2 Becoming bankrupt, committing an act of bankruptcy or having judgment entered against you in any court.

14 Intellectual Property

- 14.1 All intellectual property rights (including all rights resulting from intellectual activity and includes copyright, inventions, patent rights, registered and unregistered trademarks, design rights, circuit layouts and all rights and interests of a like nature, including but not limited to methods and techniques, together with any documentation relating to such our rights and interests), including those developed during the supply of the Services remain our sole property at all times.
- 14.2 If we terminate this agreement, we may immediately reclaim any material incorporating our intellectual property and you grant us an irrevocable licence to enter upon your premises to reclaim such material without incurring liability to you or any other person.

15 Force Majeure

We shall be released from our obligations in the event of national emergency, war, prohibitive governmental regulation or if any other cause beyond the control of the parties renders provision of the Services impossible, where all money due to us shall be paid immediately and, unless prohibited by law, we may elect to terminate the Agreement.

16 Equitable Charge

You as beneficial owner and/or registered proprietor now charge in favour of us all of your estate and interest in any real property (including but not limited to any applicable land owned by you or described as the Street Address in the Credit Application if applicable) ('Land') to secure payment of accounts rendered by us to you for the supply of the Services including interest payable on these accounts and costs (including legal costs on a full indemnity basis) incurred by us and including the costs to prepare and lodge a Caveat against the Land and to remove the Caveat.

17 Variation

- 17.1 We may vary these Terms by providing written notice to you (by email, conventional mail or by posting the amended terms on our website).
- 17.2 If you are a Consumer, or this agreement is deemed to be a Small Business Contract, and you do not deem the variation acceptable, you may elect not to proceed with the purchase of the Services ordered before the date of the variation but which are intended to be subject to the variation.
- 17.3 If you are not a Consumer and this agreement is not deemed to be a Small Business Contract, you agree that the variation applies from the date of receiving notice of the varied Terms.

18 Failure to Act

Our failure to enforce or insist upon the timely performance of any term, condition, covenant or provision in these Terms, or our failure to exercise any right or remedy available under these Terms or at law, or our failure to insist upon timely payment of monies when due or to demand payment of any charges or fees which accrue or any extension of creditor forbearance under these Terms shall not constitute a waiver of any subsequent default or a waiver of our right to demand timely payment of future obligations or strict compliance with the Terms.

19 Legal Construction

- 19.1 These Terms shall be governed by and interpreted according to the laws of Victoria and the parties consent and submit to the jurisdiction of the Courts of Victoria.
- 19.2 Notwithstanding that any provision of the Terms may prove to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason that provision is deemed omitted without affecting the legality of the remaining provisions and the remaining provisions of the Terms shall continue in full force and effect.