

TERMS AND CONDITIONS

Welcome to McIntosh Electrical.

In these terms, we refer to McIntosh Electrical as **our**, **we**, or **us**.

And you are you!

What are these terms about?

These terms apply when you use this website, being mcintoshelctrical.com.au and any other websites we operate with the same domain name and a different extension (**Website**).

If you are looking for our Privacy Policy, which we will comply with and you also agree to be bound by, you can find it here [[Privacy Policy](#)].

PART B

FOR WHEN YOU BROWSE THIS WEBSITE...

1. ACCESS AND USE OF THE WEBSITE

You agree to only use the Website in accordance with these terms and any applicable laws.

2. YOUR OBLIGATIONS

You must not:

- (a) copy, mirror, reproduce, translate, adapt, vary, modify, sell, decipher, or decompile any part or aspect of the Website.
- (b) use the Website for any purpose other than the purposes of browsing, selecting, or purchasing Jobs.
- (c) use, or attempt to use, the Website in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity.
- (d) use, or attempt to use, the Website in a manner that may interfere with, disrupt, or create undue burden on the Website or the servers or networks that host the Website.
- (e) use the Website with the assistance of any automated scripting tool or software.
- (f) act in a way that may diminish or adversely impact our reputation, including by linking to the Website on any other website; and
- (g) attempt to breach the security of the Website, or otherwise interfere with the normal functions of the Website, including by:
 - (i) gaining unauthorised access to Website accounts or data.
 - (ii) scanning, probing, or testing the Website for security vulnerabilities.
 - (iii) overloading, flooding, mailbombing, crashing or submitting a virus to the Website; or

- (iv) instigate or participate in a denial-of-service attack against the Website.

3. INFORMATION ON THE WEBSITE

- (a) While we make every effort to ensure that the information on the Website is as up-to-date and accurate as possible, you acknowledge and agree that we do not (to the maximum extent permitted by law) guarantee that:
 - (i) the Website will be free from errors or defects (or both, as the case may be).
 - (ii) the Website will be accessible at all times.
 - (iii) messages sent through the Website will be delivered promptly or delivered at all.
 - (iv) information you receive or supply through the Website will be secure or confidential; and
 - (v) any information provided including in relation to any Jobs through the Website is accurate or true.
- (b) We reserve the right to change any information or functionality on the Website by updating the Website at any time without notice, including Product descriptions, prices, and other Website Content (defined below).

4. INTELLECTUAL PROPERTY

- (a) We retain ownership of the Website and all materials on the Website (including text, graphics, logos, design, icons, images, sound and video recordings and pricing) (**Website Content**) and reserves all rights in any intellectual property rights owned or licensed by us not expressly granted to you.
- (b) You may make a temporary electronic copy of all or part of the Website for the sole purpose of viewing it. You must not otherwise reproduce, transmit, adapt, distribute, sell, modify, or publish the Website or any Website Content.
- (c) In this clause, "**intellectual property rights**" means all copyright, trade mark, design, patent, semiconductor and circuit layout rights, trade, business, company and domain names, confidential and other proprietary rights, and any other rights to registration of such rights whether created before or after the date of these terms both in Australia and throughout the world.

5. THIRD PARTY TERMS AND CONDITIONS

- (a) You acknowledge and agree that third party terms & conditions (**Third Party Terms**) may apply.
- (b) You agree to any Third-Party Terms applicable to any third-party goods and services, and we will not be liable for any loss or damage suffered by you in connection with such Third-Party Terms.

6. LINKS TO OTHER WEBSITES

- (a) The Website may contain links to other websites. We have no control over the content of any linked websites, and we are not responsible for that content.
- (b) Inclusion of any linked website on the Website does not imply our approval or endorsement of the linked website.

7. THIRD PARTY PLATFORM

- (a) This Website is powered by a third-party platform and the terms and conditions of that third party may apply to your use of this Website to the extent applicable to you.
- (b) To the maximum extent permitted under applicable law and our agreement with our third party platform provider, we will not be liable for any acts or omissions of that third party, including in relation to any fault or error of the Website or any issues experienced in submitting Orders.

8. SECURITY

We do not accept responsibility for loss or damage to computer systems, mobile phones or other electronic devices arising in connection with use of the Website. You should take your own precautions to ensure that the process that you employ for accessing the Website does not expose you to risk of viruses, malicious computer code or other forms of interference.

9. REPORTING MISUSE

If you become aware of misuse of the Website by any person, any errors in the material on the Website or any difficulty in accessing or using the Website, please contact us using the contact details or form provided on our Website.

PART C

LIABILITY AND OTHER LEGAL TERMS...

10. LIABILITY AND INDEMNITY

- (a) (**Limitation of liability**) To the maximum extent permitted by applicable law, the maximum aggregate liability to any person for loss or damage of any kind, however arising whether in contract, tort (including negligence), statute, equity, indemnity or otherwise, arising from, in connection to or relating in any way to this Website, these terms or any Job (including any services and items included as part of a Job) performed by us is limited to \$100 AUD.
- (a) (**Indemnity**) You indemnify us, our employees, officers, contractors and agents from and against all liability for loss, damage or injury which is or may be suffered by any person arising from, in connection to or resulting from your or your representatives':
- (i) breach of any of these terms.
 - (ii) use of the Website; or
 - (iii) use of any goods or services provided by us.
- (b) (**Consequential loss**) To the maximum extent permitted by law, under no circumstances will we be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising from, in connection to or relating to this Website, these terms or any Job (including any services and items included as part of a Job) performed by us (except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth)) or any other applicable law.

11. AUSTRALIAN CONSUMER LAW

- (a) Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
- (i) to cancel your service contract with us; and
 - (ii) to a refund for the unused portion, or to compensation for its reduced value.
- (b) You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

12. DISPUTE RESOLUTION

- (a) A party claiming that a dispute has arisen under or in connection with these terms agrees not to commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.
- (b) A party that requires resolution of a dispute which arises under or in connection with these terms agrees to give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute agrees to then use its best efforts to resolve the dispute in good faith. If the dispute is not resolved within a period of 14 days (or such other period as agreed by the parties in writing) after the date of the notice, any party to the dispute may take legal proceedings to resolve the dispute.

13. NOTICES

- (a) A notice or other communication to a party under these terms must be:
- (i) in writing and in English; and
 - (ii) delivered via email to the other party, (**in our case**) to our contact email on our Website and (**in your case**) to the email provided to us on your Order, or if no

email is available, to the email used by you to correspond with us (**Email Address**).

- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
- (i) 24 hours after the email was sent; or
 - (ii) when replied to by the other party,
- whichever is earlier.

14. GENERAL

- (d) (**Governing law and jurisdiction**) These terms are governed by the law applying in New South Wales. Each party irrevocably submits to the exclusive jurisdiction of the courts of New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with these terms. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.
- (e) (**Waiver**) No party to these terms may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.
- (f) (**Severance**) Any provision of these terms which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of these terms is not limited or otherwise affected.
- (g) (**Joint and several liability**) An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.
- (h) (**Assignment**) you cannot assign, novate, or otherwise transfer any of your rights or obligations under these terms without our prior written consent.
- (i) (**Entire agreement**) These terms embody the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of these terms.
- (j) (**Interpretation**)
- (i) (**singular and plural**) words in the singular includes the plural (and vice versa).
 - (ii) (**currency**) a reference to \$; or "dollar" is to Australian currency.
 - (iii) (**gender**) words indicating a gender includes the corresponding words of any other gender.
 - (iv) (**defined terms**) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.
 - (v) (**person**) a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
 - (vi) (**party**) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee.
 - (vii) (**these terms**) a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of these terms, and a reference to these terms includes all schedules, exhibits, attachments and annexures to it;
 - (viii) (**document**) a reference to a document (including these terms) is to that document as varied, novated, ratified or replaced from time to time.
 - (ix) (**headings**) headings and words in bold type are for convenience only and do not affect interpretation.
 - (x) (**includes**) the word "includes" and similar words in any form is not a word of limitation; and

- (xi) **(adverse interpretation)** no provision of these terms will be interpreted adversely to a party because that party was responsible for the preparation of these terms or that provision.