



TERMS AND CONDITIONS

Any and all works carried out by CPS NSW either quoted or otherwise shall be subject to these Terms and Conditions in full. It is the sole responsibility of the Client to read the Terms and Conditions carefully and pursue legal advice if required before engaging CPS NSW.

1. DEFINITIONS

- 1.1** "CPS NSW" shall mean CPS NSW Pty Ltd ABN 50 642 455 114, or any agents, contractors and employees hereof.
- 1.2** "Client" shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by CPS NSW to the Client.
- 1.3** "Goods" shall mean goods supplied by CPS NSW to the Client (& where the context so permits shall include any supply of services) & are as described on the invoices quotation, work authorisation or any other forms as provided by CPS NSW.
- 1.4** "Works" shall mean all Goods supplied by CPS NSW to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).
- 1.5** "Price" shall mean the price payable for the Goods and or Works as agreed between CPS NSW and the Client.

2. QUOTATIONS

- 2.1** All quotes are valid for thirty (30) days from the date of the quotation. If acceptance is received after this period has lapsed, the job may be required to be requoted.
- 2.2** Unless specifically stated otherwise, all quotations are based on costs of labour and materials at the date of the quotation and is subject to price variation.
- 2.3** Unless specifically stated otherwise, all quotations are based on the following assumptions:
- a) that supplier items and major material items can be ordered, and stored either on site or off site with storage certificates issued and payment made for materials held in storage;
 - b) that free and unrestricted access to all required work areas will be provided;
 - c) that the work will be conducted during regular business hours Monday to Friday 6am to 5pm;
 - d) that any trenching work (if required) will be conducted on soft to medium ground density, hard ground area digging will incur additional costs;
 - e) that the work for which this quotation is submitted will be executed in an environment free of hazardous material.
 - f) Client will make good the site or remove & dispose of rubble, fittings, wiring, materials, general waste, general waste from site.
- 2.4** The break-up of prices quoted are submitted for the purpose of a guide only. Should any of the quoted figures deviate from the actual figures, we reserve the right to revise the amount tendered.
- 2.5** The Client must communicate acceptance of the quotation before Works will be scheduled.
- 2.6** The amount(s) quoted excludes Goods and Services Tax (GST) which apply according to law.
- 2.7** The Client is responsible for all disconnection(s) & reconnection(s) of all live services prior, during & after quoted works.

3. ACCEPTANCE

- 3.1** Any instructions from the Client placing an order or accepting a quote shall constitute acceptance of these terms and conditions.
- 3.2** These terms and conditions may only be altered by agreement between the parties, in writing.
- 3.3** CPS NSW will provide the Works to the Client and the Client will pay the Price to CPS NSW for performing those Works.
- 3.4** All descriptive specifications, illustrations, drawings, dimensions etc, furnished by CPS NSW are approximate only and are intended to be by way of general description of the Goods and do not necessarily form part of the contract or agreement unless specifically identified as such in writing.

4. CANCELLATION & RE-START

- 4.1** CPS NSW may cancel these terms & conditions or cancel delivery of goods & services at any time giving at least 24 hours written advice. CPS NSW shall not be liable for any loss or damage what-so-ever arising from such cancellation.
- 4.2** The client must provide CPS NSW with at least 3 working days' notice in writing of any cancellation of works. Failure to do so will incur 30% payment of the original quoted / invoice amount payable by the client.
- 4.3** Re-Start of works due to Client delay will incur a site re-establishment fee of a minimum 4hour charge per employee of \$440.00 + GST to cover lost time incurred by CPS NSW.
- 4.4** Placing a deposit with CPS NSW secures & confirms your job. Where a deposit has been paid to CPS NSW, deposits are non-refundable.

5. PAYMENTS

- 5.1** The client agrees to make progress or milestone payments as requested. Failure to do so will cancel all further works until such time, progress or milestone payments are paid.
- 5.2** The client agrees to pay the full invoice amount on the completion of works.
- 5.3** Direct deposit, credit card & cash payments accepted. I give permission to CPS NSW to carry out transactions over the phone using my credit card details for the value of the invoice amount or as per payment arrangement i.e. non-refundable deposit, progress or milestone payments.
- 5.4** A credit card transaction fee of 2% applies to all credit card payments.
- 5.5** CPS NSW will render an invoice to the Client which is to be paid immediately upon receipt of invoice, unless otherwise agreed upon between the client and CPS NSW per CPS NSW Credit application dictating terms outside of immediate payment.
- 5.6** Any payments which fall overdue shall incur a daily default fee of 10% annually, charged at a monthly fee.
- 5.7** An early payment discount of 5% may apply for any Client who holds a Credit Account with CPS NSW, that is not in a default status upon completion of works and date of invoice being raised.
- 5.8** Payment defaults, including any default fees, that are 30 days or more overdue may be handed over to a debt collection agency or solicitor.
- 5.9** Any costs incurred by CPS NSW in obtaining payment of outstanding invoices including legal costs and/or collection agency fees will be the sole responsibility of the Client.
- 5.10** All quoted works are subject to variations as required & are at the discretion of CPS NSW in order to carry out & complete works to Australian & Safety Standards.
- 5.11** All variations will incur further fees & charges in addition to the original quoted amount.
- 5.12** CPS NSW's fees & charges are subject to change without notification to the client.
- 5.13** Additional fees & charges shall apply outside of normal business hours Monday to Friday 6am to 5pm.
- 5.14** I accept that all invoices shall be provided in categories of labour, materials & GST only. Itemised accounts will not be issued.
- 5.15** All goods shall remain the property of CPS NSW until such time payment is received in full.

6. HAZARDOUS MATERIALS / WORKSITE SAFETY

- 6.1** The Client agrees that the site will comply with any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation.
- 6.2** The Client shall inform CPS NSW of:
- a) general and specific safety requirements as and when they arise, in relation to the site;
 - b) any incident or potential hazard that may cause harm to CPS NSW personnel
- 6.3** The Client accepts full responsibility for the resolution of any problems and for delays and additional costs which may result from the presence of hazardous materials in or about the site on which the Works (or any part thereof) are being performed.
- 6.4** CPS NSW will only undertake live work or work near live conductors where it is safe to do so. Live work may require CPS NSW to disconnect or isolate parts of the installation to undertake such work for which additional charges may be applicable.
- 6.5** If during the course of installation where Works are being conducted within and around switchboards that it is found to be unsafe by CPS NSW the Client will be immediately notified. The power if isolated will not be re-energised until such times as the existing condition has been rectified and made safe in accordance with state regulations. All costs associated with the rectification works including materials and labour shall be to the Client's account. All works shall be notified to Energy Safe Western Australia as required and relevant electrical inspections obtained.

7. UNDERGROUND SERVICES

- 7.1** The Client will indemnify CPS NSW & keep CPS NSW indemnified against any liability, loss, claim or proceedings of any kind (whether arising under statute or common law) arising from services which are buried or unseen being disturbed or damaged.
- 7.2** The Client will provide CPS NSW an (up)dated report from a certified services search contractor for any ground penetration works to be completed by CPS NSW.
- 7.3** CPS NSW will not be liable for any repair work & any repair work required will be paid at the Clients expense. Such liability, loss, claims or proceedings includes but is not limited to:
- a) Damage to the property, real or personal;
 - b) Death or personal injury;
 - c) Consequential or economic loss of any kind.

8. ROCK & FILLED GROUND

- 8.1** Unless specifically included in written quotes &/or estimates, rock excavation, dewatering or supportive work such as pier & beams for filled or made up ground will be charged out as a variation to the original price.
- 8.2** Quotation is based on excavation of clean soils only, unless otherwise specifically stated in writing.
- 8.3** Existing soils shall be returned to excavated areas where possible & ground shall left filled. Landscaping and concrete works are not included in quotation unless specified be in writing.
- 8.4** All concrete, paving and landscape works including shrub / plant & lawn replacement will be treated as a variation as set out in 5.12 of this document.

9. DRAINS & SEWERS

- 9.1** The Client understands that the presence of plant/tree root growth &/or blockages generally indicates damaged pipes. Additionally the Client agrees that blocked drains, sewer pipes & storm water lines cannot be permanently fixed by simply removing “plant/tree root growth” or cleaning the drain. Therefore, no warranty is provided in relation to future blockages regardless of timeframe re-occurring whether in the same location or other drainage / sewer lines within the same property.
- 9.2** The Client acknowledges that Close Circuit Television (CCTV) is a specialist piece of equipment which may or may not be used at CPS NSW sole discretion in an attempt to identify the source of the blocked drain. Should CCTV equipment be used, the Client acknowledges that additional charges will be imposed.
- 9.3** Should any CPS NSW equipment become lodged or damaged in the Clients drain it will be removed & / or repaired at the Clients expense (includes materials, parts & labour) or monetary compensation to the total replacement of same or higher quality value will become payable to CPS NSW immediately.

10. LIMITATION OF LIABILITY AND EXCEPTED RISKS

- 10.1** The Client acknowledges that they have made their own assessment as to the condition quality, value, suitability and fitness for the purpose of CPS NSW.
- 10.2** CPS NSW shall not be liable or be deemed to be in breach of contract by reason of any delay in performing, or any failure to perform any of the Works if the delay or failure was due to any cause beyond CPS NSW’s control, including but not limited to an act of god, government act, fire explosion, accident, discovery of hazardous material, civil commotion or industrial dispute.
- 10.3** CPS NSW shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and /or expense (including loss of profit) suffered by the Client arising out of a breach of these Terms and Conditions.
- 10.4** In the event of any breach of this contract by CPS NSW the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price.
- 10.5** CPS NSW shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and /or expense (including loss of profit) suffered by the Client arising out of a breach of these Terms and Conditions.

11. INTELLECTUAL, RISK AND TITLE PROPERTY

- 11.1** Where CPS NSW have designed or drawn Goods for the Client, then the copyright in those designs and drawings shall remain vested in CPS NSW, and shall only be used by the Client at CPS NSW’s discretion and with written consent to do so.
- 11.2** The risk in all goods supplied shall pass to the Client upon delivery.
- 11.3** All goods supplied shall remain the property of CPS NSW until all sums due have been paid in full.

12. COMPLIANCE

- 12.1** The Client & the CPS NSW shall comply with the provisions of all statutes, regulations & bylaws of government, local & other public authorities that may be applicable to the works.
- 12.2** CPS NSW will perform all work in compliance with applicable Australian Standards in force at the time of the work.
- 12.3** The Client shall obtain (at the expense of the Client) all licenses & approvals that may be required for the works (councils or other governing agents).
- 12.4** The Client agrees that the site will comply with any occupational health & safety laws relating to building/construction sites & any other relevant safety standards or legislation.

13. INSURANCE & WARRANTY

- 13.1** CPS NSW maintains adequate insurance that protects their property, their employees and the interest of third parties resulting from the negligence of CPS NSW.
- 13.2** CPS NSW warrants its installation work to be defect free for a period of twelve {12} months from invoice date. Such cover does not extend to goods not supplied by CPS NSW, physical damage to products, or any instance where the original installation has been altered or tampered with subsequently by third parties.
- 13.3** CPS Warranty shall be valid for 12 months (unless otherwise stated) from invoice date. Warranty shall only be valid on exact location & works as carried out by CPS NSW. Client must provide original invoice for proof of works.
- 13.4** CPS NSW shall have the first option to remedy any defect within the warranty period {Warranty Work}.
- 13.5** The Client shall inspect the goods & works on completion & must report any defects to parts or installation works within 48 hours in writing to CPS NSW of any alleged defects, shortage in quantity or damage.
- 13.6** The Client shall afford CPS NSW an opportunity to inspect the alleged damage / defect within 7 working days from date of written notification & give CPS NSW the opportunity to make good to Australian & reasonable standards within 14 working days.
- 13.7** All Warranty Work shall be conducted during regular business hours.
- 13.8** All valve & valve type parts as well as any specified items installed by CPS NSW must be serviced annually by CPS NSW. Failure to do so shall void all warranty. It is the sole responsibility of the client to arrange an appointment for preventative maintenance.
- 13.9** No warranty shall be provided on blocked sewer, drainage or storm water as set out at clause 9.1

14. DISPUTE RESOLUTION

- 14.1** If a dispute arises between the parties to this contract, then either party shall send to the other party a notice of dispute in writing adequately identifying & providing details of the dispute. Within seven (7) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute.
- 14.2** At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered or sent by certified mail to the other party refer such dispute to arbitration.
- 14.3** Any arbitration shall be referred to The Consumer Trader & Tenancy Tribunal (CTTT).
- 14.4** The Client shall not be entitled to set off against, or deduct from the Price, sums owed or claimed to be owed to the Client by CPS NSW nor to withhold payment of any invoice because part of that invoice is in dispute.

15. CLIENTS DISCLAIMER

- 15.1** The client hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him/her by any servant or agent of CPS NSW & the Client acknowledges that he/she buys the services of CPS NSW relying solely upon his/her own skill & judgment & that CPS NSW shall not be bound by nor responsible for any term, condition, representation or warranty other than the warranty given by the Manufacturer which warranty shall be personal to the Client & shall not be transferable to any subsequent Client.

16. GENERAL

- 16.1** In the event of conflict between these conditions and those which may be included in, or implied by any document forming part of an enquiry, specification, quotation, order or contract, than these conditions prevail except in as far as they are expressly varied by us in writing or by law.

16.2 This agreement is governed by, and is to be construed in accordance with the law for the time being of New South Wales. The Parties hereby agree to submit to the non-exclusive jurisdiction of the Courts of the State.

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16.4 CPS NSW does not accept any responsibility for damage to property during works being carrying out.

16.5 CPS NSW shall not be held liable for any such delays for work not being completed due to weather conditions, shortage of labour hire, machinery or materials outside the direct control of CPS NSW.

16.6 In the event of any breach of this contract by CPS NSW the remedies of the Client shall be limited to damages. Under no circumstances shall the liability of CPS NSW exceed the Price of the Goods.

16.7 CPS NSW reserves the right to review & make changes to these terms & conditions at any time agreement.