

PRICE ELECTRIC
ADDITIONAL TERMS AND CONDITIONS

Acknowledgement and Temporary Work Disclaimer. Client acknowledges that emergency restoration Work is temporary in nature. Client acknowledges that Price Electric shall not be held liable for damages to the Property occurring during or upon completion of temporary repairs and shall hold harmless Price Electric from and against any and all claims related to the Property. Client further understands that “call backs” constitute further temporary repairs and will be charged accordingly. Price Electric is not responsible for damage to any surfaces on walls, floors and/or ceilings in and around the work area when building containment and hanging critical barriers. Client further acknowledges that Price Electric is not responsible for damages arising from the removal of tape and/or spray adhesive, as these may cause minor damages to the surfaces to which they were adhered.

No Environmental Liability. Price Electric shall in no way be liable for any claim or damage related to mold, asbestos, viral contamination or other environmental hazards, and Client hereby knowingly releases and waives Price Electric from any and all such claims and/or damages.

Default. If Client defaults in any of its obligations herein, Price Electric may, at its option, in addition to other remedies provided in this Client Work Agreement or pursuant to applicable law or principles of equity, pursue one or more of the following remedies: (i) suspend some or all of the Work until all defaults have been cured; (ii) upon 3 days written notice to Client, terminate some or all of Price Electric’s obligations under this Client Work Agreement; and/or (iii) recover all amounts due under this Client Work Agreement plus all expenses and reasonable attorneys’ fees and expenses incurred by Price Electric, as a result of Client’s breach or Price Electric’s enforcement of this Client Work Agreement. Upon default or should Client desire to terminate Price Electric’s services herein, Client shall pay Price Electric for all Work performed to the date of termination, including all materials delivered for the Work, whether incorporated into the Property or not, plus a sum equal to 30% of all costs that would have been incurred by Price Electric, but for the termination of this Client Work Agreement. Should Price Electric decline to accept an Insurer’s payment offer, Client shall pay Price Electric for all Work performed to date of the declination including demobilization, upon Price Electric invoicing for same.

Insurance and Other Party Direction. Client irrevocably directs Client’s insurance carrier(s) providing coverage for the Work (“Insurer”) to include the name of Price Electric on any checks or drafts issued in connection with the Work, to the extent the checks or drafts relate to the Work. Client specifically authorizes and directs Insurer to disclose the status, to Price Electric, of such Client’s payments regarding the Work, to the extent the payments relate to the Work. To secure payment, and to induce Price Electric to perform the Work, Client assigns all rights to insurance proceeds to Price Electric, to the extent that the proceeds relate to the Work. Client is ultimately responsible for prompt payment of all invoices related to the Work. It is fully understood and agreed that the Client is personally responsible for any and all deductible, depreciation or any charges or costs not covered by insurance. Client agrees that any applicable deductible shall be paid in full at the commencement of the Work. In the event Client’s Insurer issues payment to Client, without designation as to Client’s insurance policy coverage(s), the same shall be deemed to first, be on account of the Work. Client understands and agrees that the proceeds of the payment instrument are the property of Price Electric and depositing of the payment instrument into a Client controlled account constitutes conversion of Price Electric’s property. Pending payment to Price Electric, Client shall hold any and all applicable insurance proceeds in trust for the benefit of Price Electric. Client understands and agrees that the specified duties owed to Price Electric are fiduciary in nature. In the event the Insurer includes, on the payment instrument, any other parties when issuing payment to Price Electric, Client agrees to promptly endorse the instrument to Price Electric and agrees to obtain any mortgage company and all other endorsements, as may be necessary, within 7 days of receipt of the payment instrument. If any mortgage company deposits the insurance payment instrument, instead of delivery to Price Electric, Client hereby instructs such mortgage company to make payment directly to Price Electric, in the amount of the insurance payment instrument. Client specifically authorizes and directs mortgage company to disclose to Price Electric the status of payments from Insurer, on account of the Work.

Acknowledgment. Client acknowledges that Client is responsible for all amounts to be paid pursuant to this Agreement related to the Work and the lack of insurance coverage or the failure to receive insurance proceeds shall not relieve Client of this responsibility.

Client Obligations. Unless Client is a landlord in a multi-tenant building, Client represents to Price Electric that there are no other persons or entities with contents or personal property at the Property. Client agrees to remove or to secure all valuables including, without limitation, cash, jewelry, firearms, silverware, fine art, valuable collections such as coins or stamps, cameras, electronics, etc. before commencement of Work. Client agrees to notify Price Electric in writing of any valuables prior to a pack out or onsite Work. Client agrees that Price Electric shall not be responsible for any unsecured valuables that Client fails to remove from the Property or fails to notify Price Electric of such in writing. This includes, without limitation, all household pets. Client shall make Client selections within the designated time frames, so as not to interfere with Price Electric’s Work schedule. Client shall schedule inspections as requested by Price Electric and it being understood that the scheduling request may occur prior to completion of the Work. Client agrees to inspect Work at the request of Price Electric and to diligently schedule and expedite any inspections required by lenders or any entity that may be responsible for release of funds due Price Electric for the performance of the Work. Client agrees to sign an acceptance form upon substantial completion of particular portions of the Work provided it is substantially completed and agrees not to withhold payment for Work substantially completed. Client agrees to promptly sign Insurer’s proof of loss and other documents reasonably necessary for payment to be issued. Client agrees to sign any and all final walkthrough forms when prepared and presented. Upon return of contents or personal property, if Price Electric does not unpack boxed contents and/or place articles in their final location, Client agrees that Price Electric shall not be liable for breakage, damage, or loss discovered subsequent to said return.

Change Order. Client may request changes in the Work consisting of additions, deletions, or modifications only by written change order (“Change Order”). A Change Order may take any written form including, without limitation, an executed formal document, an email, or a text message, so long as the written form expresses the mutual agreement of the parties.

Warranty and Limited Liability. Upon receipt of, and conditioned upon, final payment, Price Electric shall warrant its labor to be free from defects in workmanship for a period of 1 year from Substantial Completion and shall assign to Client all applicable manufacturers or supplier’s warranties. This limited warranty is limited to the repair or replacement cost, at Price Electric’s option, of the Work provided by Price Electric and specifically excludes incidental or consequential damages. Price Electric specifically does not warrant or cover manufacturer’s, supplier’s, or others’ warranties. There are no other warranties express or implied. In order to perfect a warranty, claim hereunder, the Client shall first provide Price Electric with written notice of a claim and provide Price Electric with a reasonable opportunity and access to the Work to determine the validity and merit of the claim and its response thereto. If any repair or replacement of the Work is undertaken, without the Client first permitting Price Electric with the written notice and access, as described herein, then this limited warranty shall be void and unenforceable. Notwithstanding anything else contained herein to the contrary, it is expressly understood and agreed that Price Electric’s maximum aggregate liability to Client or any third-party, in any way related to this Client Work Agreement which shall include, without limitation, claims sounding in contract, tort, strict liability or otherwise shall not exceed the total amount actually paid by Client to Price Electric, for the Work. Client waives any and all rights to claims for consequential or punitive damages in any way related to this Client Work Agreement.

Non-Assignment. This Agreement is non-assignable by Client, unless otherwise agreed to in writing by Price Electric. Price Electric may withhold consent to any requested assignment in its sole discretion. Price Electric shall have the right to assign this Agreement. Any purported assignment without the prior written consent of Price Electric is voidable at the exclusive option of Price Electric, in Price Electric’s sole and absolute discretion. In the event that the Client sells, transfers, or otherwise separates from any of its properties for which services have been rendered by Price Electric, the Client agrees to pay all outstanding invoices related to that property, whether or not they have reached their due date, within seven (7) days of the date of such sale, transfer, or separation. It is expressly understood and agreed by the parties that the Client’s obligation to pay these open invoices shall not be extinguished or diminished by the sale or separation of the property. All rights, remedies, obligations, and liabilities under this Agreement, particularly those pertaining to open invoices, shall survive the sale or separation of the property and remain in full force and effect.

Jurisdiction and Disputes. Client acknowledges and agrees that this Agreement is made with an organization headquartered and operating in the State of Colorado, and that this Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Colorado, without reference to conflicts of law principles. Client further acknowledges and agrees that any action or proceeding arising out of or relating to this Agreement, or the enforcement thereof, shall be solely brought in the Arapahoe County District Court or the U.S. District Court for the District of Colorado, and Client irrevocably submits to the exclusive jurisdiction of such court, in any action or proceeding, and knowingly waives any objection Client may have related, in any way, to jurisdiction, venue or forum. Client further agrees that all claims between the parties pursuant to the Agreement shall be heard and determined only in such court(s) and Client agrees not to bring any action or proceeding arising out of or relating to this Agreement, or the enforcement hereof, in any other court. The parties also acknowledge and agree that either or both may file a copy of this provision with any court, as written evidence of the knowing, voluntary, and bargained agreement between the parties irrevocably waiving any objections to jurisdiction, venue, or forum. TO THE GREATEST EXTENT PERMITTED BY LAW, THE PARTIES WAIVE ANY STATUTORY OR COMMON LAW RIGHT TO VOID THIS PROVISION.

Claims and Disputes. CLIENT AND PRICE ELECTRIC, JOINTLY AND SEVERALLY, KNOWINGLY, WILLINGLY, AND VOLUNTARILY, AND BY THEIR EXPRESS DESIRE AND INTENT, DO EXPRESSLY HEREBY WAIVE a trial by jury on all issues, claims, counterclaims, and cross-claims of any kind or nature arising out of or in connection with this Client Work Agreement, and further waive all and any claims against each other for delay, exemplary, and consequential damages of any type or nature arising out of or relating to this Client Work Agreement. Client and Price Electric agree that any claim and/or dispute arising in connection with this Client Work Agreement shall be settled by arbitration, before one (1) arbitrator jointly agreed upon by the parties, the same to be administered by the American Arbitration Association (“AAA”), or at the sole discretion of Price Electric, some equivalent organization, and the proceedings shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA (the “Rules”); notwithstanding the preceding, Price Electric may, at its sole discretion, in addition to instituting the arbitration proceedings, file separate judicial proceedings, in a court of appropriate jurisdiction, to establish and/or enforce a mechanic’s lien, and then stay the judicial proceedings pending the final determination of the arbitration. Client and Price Electric agree that the filing of a judicial action to establish and/or enforce a mechanic’s lien shall not be deemed to be a waiver of the right to have the claim settled by arbitration. Judgment on the award rendered through arbitration may be entered in any one or more courts having jurisdiction thereof, including, but not limited to, a court of appropriate jurisdiction located in the state and county where the Property is located, as well as a court of appropriate jurisdiction located in any state and county where the Client conducts business. In addition to any other powers conferred pursuant to the Rules, the arbitrator shall have the power to determine the right to the establishment and enforcement of a mechanic’s lien. The parties further agree that if Price Electric has filed a judicial proceeding to establish and/or enforce a mechanic’s lien, the court where the judicial proceeding was filed shall have the right, upon motion filed by a party, to lift the stay of the judicial proceedings.

and to enter the judgment in accordance with the decision of the arbitrator and to enforce the same with respect to both the mechanic's lien and/or any monetary judgment rendered in connection with the arbitration proceedings. The arbitrator may, in the award, allocate all or part of the costs of the arbitration including, but not limited to, the fees of the arbitrator and the prevailing party's reasonable attorneys' fees. Absent such an award, the parties agree to equally split and pay the costs of the sole arbitrator. If the parties cannot agree on a single arbitrator, then each party shall nominate an arbitrator, with construction industry experience, and then those 2 nominated arbitrators shall jointly agree upon the selection of one arbitrator, who shall serve as the sole arbitrator.

Material Change. If any event outside the control of Price Electric causes the cost of Price Electric's performance to increase by an amount greater than: (i) ten percent (10%) of the amount initially estimated for the Work or (ii) ten thousand dollars (\$10,000), whichever is less, then Price Electric may, in its sole discretion: (1) terminate the Agreement or (2) require a renegotiation of the cost of the Work. Further, if any event outside of the control of Price Electric causes a change in Price Electric's time for performance by at least ten percent (10%) between the date of this Agreement and the date of installation or procurement, the time for performance shall be equitably adjusted and, at Price Electric's option in its sole discretion, Price Electric may terminate the Agreement.

Severability. If any provision of this Client Work Agreement, or the application thereof shall, for any reason and to any extent, be deemed invalid or otherwise unenforceable, then such term shall be conformed to the maximum extent lawfully permitted pursuant to applicable law or regulation. The Client Work Agreement and the application of such provisions to other persons, firms, entities, or circumstances shall otherwise not be affected thereby and shall remain in full force and effect.

Controlling Terms. To the extent that a Client's notification, as described herein, purports to incorporate a scope of work and/or additional terms and conditions, the parties may incorporate such scope of work and/or additional terms into this Agreement, but only if it is agreed to in writing by both parties. ALL OTHER TERMS AND CONDITIONS SET FORTH IN THE CLIENT'S NOTICE RELATED TO THE WORK OR ANY OTHER PURPORTED MODIFICATION TO THE AGREEMENT, WHICH ARE NOT EXPRESSLY AGREED TO BY THE PARTIES IN WRITING, ARE EXPRESSLY EXCLUDED FROM THIS AGREEMENT AND ARE VOID. No oral agreement of whatever nature entered into by either of the parties or representatives of the parties shall be deemed to alter or amend the provisions of this Agreement. If the parties agree to incorporate the notification or scope of work into the Work, and that notification conflicts with this Agreement, this Agreement, and not the terms of the notice or scope of work, will control.