



Terms & Conditions of Sale

1.0 Interpretation

- a) Company means Current Electrical (2013) Limited
- b) Customer means the person/s, company, client, trust, organization or body corporate described or referred to on the credit application form which these terms and conditions form a part of; or (if applicable) the person/s, company, client, trust, organization or body corporate identified as such on any document which incorporates these terms and conditions.
- c) PPSA means the Personal Property Securities Act 1999
- d) CGA means the Consumers Guarantees Act 1993
- e) GST means Goods and Services Tax
- f) Goods means goods, products and/or services
- g) Event of Default examples being but not limited to;
 - The Customer's failure to comply with any contract or agreement with the Company
 - The Customer's subject to an event relating to dissolution, winding up, bankruptcy, liquidation, insolvency, receivership or which generally precedes such an event
 - The Company becomes aware of an event or information which in the Company's opinion may affect the Customer's creditworthiness, the value of any goods, the Customer's ability to comply with its obligations under any contract with the Company

2.0 Contract

- 2.1 A contract has been entered into between the Company and the Customer for the supply of goods whether created by verbal instruction, purchase order, fax, email, letter, or, implied by the conduct of the Customer; or, by any other means.
- 2.2 It is expressly acknowledged and agreed by all parties that where a contract is deemed to have been entered into, as described above in clause 2.1, then the Company's offer in regards to the contract will prevail, and, this can not be changed, altered or over-ridden by any other contract, regardless and including, whether or not, when, or if, a Head Contract has been entered into.

3.0 Use of Information

- 3.1 It is irrevocably authorized by the Customer that the Company, or its agents, may receive, hold, use, and furthermore disclose information to any other party about the Customer whether from the Customer or any other person or entity in the course of carrying out its business, including but not limited to credit approval, debt collection, marketing activities and management of any credit facility the Customer may have or request.
- 3.2 The Customer is to notify the Company of any change in circumstances that may affect the accuracy of the information provided by the Customer or their credit facility.

4.0 Price

The price is the Company's current price for goods and, any other incidental items, as at the contract date, or, where applicable, the price quoted by the Company, subject always to Customer requested variations (whether verbal or written), additional works, or, works outside the original scope of the Company's quote. Any difference between the price of the goods at the contract date and date of delivery will be a charge to the Customer's account.

5.0 Payment Terms

- 5.1 All money, without deduction, will be paid in full 20th month following completion of our works.
- 5.2 Progress Payments will be claimed where applicable based on a percentage of completion for labour and materials whether onsite or not.
- 5.3 The Company does not accept "Paid when paid" clauses.
- 5.4 The Company will not accept payment deductions or off-sets against other contracts.
- 5.5 The Construction Contracts Act 2002, and amendments, will apply

6.0 Default Penalty

- 6.1 The Company may charge the Customer a default penalty on any moneys due but unpaid under the contract.
- 6.2 This will be calculated on a daily basis at the rate of 2% per month.
- 6.3 The default penalty is payable from the date payment is due until the date the Company receives payment.
- 6.4 The Company's right to charge a default penalty is without prejudice and shall in no way affect the Company's rights, powers or remedies from the Customer's payment default.

7.0 Quotes

- 7.1 Quotations provided by the Company are based on current prices for goods and based on the Company carrying out the work during normal working hours.
- 7.2 Prices will be adjusted to reflect any increased costs associated with labour and supply of goods.
- 7.3 Where the Company has supplied the Customer with a quote based on information, sketches, plans, schedules, specifications, measurements, or otherwise, provided by the Customer, then, the Customer agrees to pay for any variation between the estimate and actual quantities supplied.
- 7.4 The Company will not be responsible for any errors or omissions caused by incorrect or incomplete facsimile, email or other means of transmission in which the Customer has accepted any quote.

8.0 Validity

A quote will be valid for thirty (30) calendar days from the date of the quote, or, for however long stated in the Company's offer.

9.0 Delivery

- 9.1 Delivery dates provided by the Company are given in good faith based on known and expected events and circumstances, the Company will not be held responsible or liable for delays caused to delivery due to unknown or unexpected events or circumstances. Including delays caused to delivery through delayed supply of goods from the Company's suppliers.
- 9.2 The Customer will ensure, and bear the cost of providing, a safe and adequate access-way, complete with lay-down area, for delivery and unloading. Costs incurred through delays arising from inadequate access and lay-down during onsite unloading will be to the Customer's account.

10.0 Tax, Duties, Levies, Tariffs, Excise, Permit

- 10.1** Unless expressly included in our offer, the price is stated exclusive of Goods and Services Tax, and, any other taxes, duties, levies, tariffs, excise and/or permit in connection with the goods, including also any other incidental goods supplied to the Customer.
- 10.2** The Customer will be charged and bear all costs pertaining to Goods and Services Tax, plus any other such duties that may apply, these will be charged, where appropriate, and at the rate applicable at the date of invoice.

11.0 Risk

- 11.1** All risk in the goods passes to the Customer on delivery to the Customer's premises, project site or designated place by the Company.
- 11.2** Should any of the goods be damaged or destroyed prior to property passing to the Customer, the Company is entitled, without prejudice to any of its other rights or remedies under the contract to receive all insurance proceeds payable for the goods, as well as the right to receive payment of the price, whether or not it has become payable under the contract.
- 11.3** The contract, including the Company's terms and conditions, will be sufficient proof of the Company's right to receive full payment of the insurance proceeds.

12.0 Property in Ownership Of and Title To

- 12.1** Property in ownership of and title to the goods will not pass to the Customer until the Customer pays, in full, the amount owing, including any other amounts owing under other contracts.
- 12.2** The Customer holds the goods as the Company's bailee until such time as property in the goods passes to the Customer.
- 12.3** The Company (including anyone it may appoint to act on its behalf) may, as agent of the Customer, without prior or any notice, enter any land or premises where the Company believes the goods may be in order to inspect the goods, and, the Customer agrees to indemnify the Company (including anyone it may appoint to act on its behalf) against any liability in connection with such entry.
- 12.4** The Customer agrees to store the goods so that they can be identified separately from the Customer's own goods.
- 12.5** The Company grants the Customer authority to use the goods or resell them for full consideration, in the ordinary course of carrying out the Customer's business, subject to and given that:
- no event of default occurs, or,
 - the Company has revoked the authority in writing to the Customer.

13.0 Guarantees and Warranties

- 13.1** Except as provided in these terms and conditions no representation, warranty or condition is implied against the Company unless it is in writing and signed by the Company.
- 13.2** Any warranty on goods will start from the date of delivery to the Customer's site, not from any installation or commissioning date.
- 13.3** In the event that delivery to site is delayed due to, for example, a specific request, or convenience, by the Customer, or, any unavailability of the site and/or lay-down or storage, then, any warranty will start from the date that the Company would have had the goods onsite except for circumstances beyond our control.
- 13.4** Warranty against faulty workmanship on the Company's own fabricated goods will be for a period of three (3) months from the date of delivery.
- 13.5** The Company warrants that the Company's fabricated goods will substantially conform to the written specifications provided by the Customer.
- 13.6** Claims under this clause must be in writing and received by the Company within seven (7) calendar days of the defect becoming apparent, subject to it being within the three (3) month faulty workmanship warranty.
- 13.7** The Company's liability under this clause will be limited in its sole discretion to, restoring the goods in conformity with the written specification as supplied by the Customer, or, replacing the goods (from which the claim has arisen).
- 13.8** Where goods supplied are not manufactured by the Company any warranty will be that which is specified by the manufacturer of the goods.
- 13.9** The Customer acknowledges and accepts that where goods are supplied by a nominated supplier whose supply falls within the Company's scope of work, then, the nominated supplier's terms and conditions and warranties apply to the goods supplied.
- 13.10** There is no warranty for reused, repaired or second-hand goods, the Company will not be liable for goods that have been tampered with, modified, repaired by others, incorrectly stored or handled.

14.0 Return of Goods

- 14.1** No goods may be returned to the Company for any reason, except for rejection of defective goods.
- 14.2** The Customer must notify the Company in writing of any such rejection claim within 7 calendar days of delivery of the goods.
- 14.3** The Company will be given due opportunity to investigate any rejection claim, and, at its sole discretion may repair, replace or otherwise remedy.

15.0 Event of Default

- 15.1** Should an event of default occur then the Company may, without prejudice to any other rights, powers or remedies:
- Suspend or terminate supply of goods, including any obligations arising under the contract, or any other contract, to the Customer, or any other party or,
 - cancel whether all or in part any order with the Customer that remains outstanding, and,
 - without prior or any notice, enter any land or premises and take possession of any goods it believes are at risk, sell, dispose of any goods the Company may see as appropriate.
 - The Customer agrees to indemnify the Company (including anyone the Company may appoint to act on its behalf), and will provide and obtain all rights, consents, permits whatsoever necessary to indemnify, against any liability in connection with such entry, taking possession and or removal.
- 15.2** The Company will not be liable to the Customer, or any other party, for any loss or damage suffered due to the Company exercising any rights, powers or remedies after a default has occurred, including under this clause.
- 15.3** The Company and the Customer agree that section 109 (1) of the PPSA is contracted out of in respect of particular goods if and only for so long as the Company is not the secured party with priority over all other secured parties in respect of those goods.

16.0 Consumer Guarantees Act 1993 (CGA)

- 16.1** If the goods and/or services are for business purposes the CGA does not apply.
- 16.2** Where the CGA does not apply then the Customer may reject non-conforming or defective goods by lodging a claim with the Company within 7 calendar days of receipt of the goods quoting relevant information.
- 16.3** The Company must be given due opportunity to investigate any claim, and, at its sole discretion may repair, replace or otherwise remedy.
- 16.4** Limitation of Liability under this clause – refer 17.3

17.0 Limitation of Liability

- 17.1** It is expressly agreed that the Company will have no liability, whether loss arises from breach of express or implied duty in contract or tort or in any other way, including loss arising from the Company's negligence, omission, failure, testing of goods, direct or indirect loss, damages, loss of contracts, loss of profit, including consequential loss, to the Customer, or any other party, however arising or caused.
- 17.2** The Customer will at all times indemnify the Company from all liability in such like circumstances.

17.3 Regardless of anything else, in any case the liability of the Company to the Customer, or any other party, will be limited to and shall not exceed, the value of the replaced goods to which the liability has arisen.

17.4 Furthermore, the Company will not be liable for;

- i) Events beyond our control or unforeseeable.
- ii) Deterioration of the goods due to exposure to weather or other elements.
- iii) Inappropriate or misuse of the goods.
- iv) Goods that have been tampered with, modified or in any way interfered with.
- v) Goods incorporated in and/or with other items or elements.
- vi) Loss or damage of goods whilst in transit and/or delivery.
- vii) Goods supplied from suppliers nominated under the Company's scope of work.
- viii) Technical advice given verbally or in writing is based on knowledge or tests believed to be reliable and is offered or provided as a helpful suggestion only. It is hereby expressly stated and understood that where all such technical advice is given the Company assume no obligation or liability as to advice given or the results obtained. All such advice will be given and accepted at the Customer's risk and the Customer will use and exercise its own judgement and rely on the same in such matters,

18.0 PPSA

18.1 To the extent permitted by law the Company and the Customer agree to contract out of;

- a) Section 114 (1)(a) of the PPSA.
- b) The Customer's rights in sections 107 (2)(c), (d), (h) and (i) of the PPSA.

18.2 The Customer waives its right to receive a copy of any verification statement in respect of any financing statement relating to security interest granted to the Company by the Customer.

18.3 The Customer agrees to indemnify the Company, upon demand, for any and all costs, including legal fees, incurred by the Company in the event of any default by the Customer, including but not limited to enforcement of any security interest the Company may have with the Customer; and in complying with any demand made under section 162 of the PPSA

19.0 Confidentiality

19.1 Confidential Information includes all business, personal, strategic and technical information or data in any form whatsoever, disclosed to or received by you pursuant to the delivery of the goods (whether in writing, verbally, or by any other means and whether directly or indirectly).

19.2 This includes, by way of example and not limitation, the terms of this Contract, all information pertaining to the affairs, policies, products, software, operations, processes, costings, pricing methods, personnel, plans or intentions, product information, know-how, methodology, intellectual property, design rights, trades secrets, market opportunities and business affairs of the Company.

19.3 Any and all Confidential Information received by you from us shall be held and kept confidential by you and shall be used by you solely for the strict purpose of performing your obligations pursuant to the Agreement.

19.4 Confidential Information shall not be disclosed by you to any third party except with, and on the terms of, prior written consent of the Company or as required by law

19.5 The Company's Confidential Information remains our property and no right, entitlement or interest in our Confidential Information is extended or conveyed to you.

19.6 At our request, and upon termination of this contract, you must ensure that all our Confidential Information is either destroyed or returned as requested, and must, if requested by us, forthwith certify in writing that this has occurred.

19.7 The terms of this Confidentiality clause shall survive the termination of this Contract.

20.0 Patents and Copyright

20.1 Copyright in all drawings, specifications and other technical information provided by the Company is vested in the Company.

20.2 Where the goods are to be supplied to the Customer's design and or information then the Customer warrants that the manufacture and or supply of the goods by the Company will not infringe any patent, copyright, registered design or other rights of any other party.

20.3 The Customer will at all times indemnify the Company against any liability it incurs, including costs and expenses, as a result of any claim that the manufacture and supply of the goods by the Company infringes any patent, copyright, registered design or any other rights of any other party.

21.0 Intellectual Property

21.1 Unless otherwise agreed in writing, all intellectual property in, and relating to the goods (including inventions, patents, trademarks, copyright, know how, designs, methodology, trade secrets and other proprietary rights or forms of intellectual property, and information confidential to us) and any alterations, additions or amendments to intellectual property shall remain the property of the Company, or of a third party as notified to you by us in writing, and shall not be disclosed to any other person without our written consent.

21.2 The Company will retain ownership in all our data provided to you as part of the work. You will not provide, supply or otherwise make available such data to any other party without our written agreement.

21.3 Notwithstanding anything to the contrary in this agreement, we will retain all ownership in all data collected as part of the goods.

21.4 The Company may use such data as we see fit, including manufacturing other products, services or goods.

21.5 The Customer agrees to take all reasonable steps to protect the Company's intellectual property and ownership rights.

21.6 The terms of this Intellectual Property clause will survive termination of this Agreement.

22.0 Development Agreement

22.1 Where the Company enters an arrangement to pay another business, developer, person or entity to design or develop a new product or process on its behalf all rights, including but not limited to intellectual property, patent, copyright, etc, will remain the property of the Company, and, the other business, developer, person, entity, agrees without exception to protect and unconditionally enter into nondisclosure in relation to all information, process, product, whatsoever that is involved in the agreement, whether developed, designed, manufactured or proto-typed.

22.2 It is expressly agreed that the business, developer, person or entity waives any and all rights it may have under its own terms and conditions of trade and that the Company's terms and conditions will prevail for the purpose of interpretation.

22.3 Furthermore, where the works involve production of literary works, such as operation manuals, then it is agreed that they will remain the property of the Company.

22.4 The terms of this Development Agreement clause will survive termination of this Agreement.

23.0 Force Majeure

23.1 The Company accepts no liability for failure to deliver the goods arising from circumstances outside the Company's control. Non-exhaustive illustrations of the circumstances are Act of God, war, riots, explosion, abnormal weather conditions, fire, flood, strikes, lockouts, government action or regulations (NZ or otherwise), delay by suppliers, accidents and shortage of materials labour or manufacturing facilities.

23.2 If the Company is prevented from delivering in the above circumstances it shall notify the Customer of the fact in writing within ten (10) calendar days commencing with the contractual delivery date.

23.3 If the circumstances preventing the delivery are still continuing three months from and including the date the Company sends such notice then either party may give notice to the other cancelling the contract. Such written notice must be received whilst the circumstances are still continuing.

23.4 If the contract is cancelled in this way the Company will refund any payment which the Customer has already made on account of the price subject to deduction of any amount which the Company is entitled to claim from the Customer but the Company accepts no liability to compensate the Customer for any further loss or damage caused by the failure to deliver.

24.0 Waiver & Severability

24.1 The Company's rights, powers, remedies, exemptions will remain in force in spite of any neglect, restraint or delay in enforcing any of them.

24.2 If any part of the contract, including these terms and conditions, is held by any court to be void or unenforceable, then, it will not prejudice the enforceability of the remaining contract, including these terms and conditions or any other contract.

25.0 Trustee Liability

In the event that the Customer is a Trust then each trustee shall be bound personally, the Company's rights against each trustee will only be limited if the trustee is an independent trustee, i.e. a trustee who does not have a right to or interest in any of the Trust's assets. The liability of any independent trustee will be limited to the assets of the Trust, except where they have given their personal guarantee.

26.0 Dispute Resolution

The Company reserves the right in any instance to enter into mediation, adjudication, arbitration or other such dispute resolution mediums

27.0 Governing Law

The contract and terms are governed by New Zealand law.

28.0 Change of Terms and Conditions

The Company reserves the right to review these terms and conditions whether in part or otherwise. Any change will take effect from the date the Company gives notice to the Customer.

29.0 Subcontract

The company reserves the right to subcontract part or all of the supply of goods

30.0 Set-Off

The Customer will not be entitled to withhold payment of the full amount due when only part of the account is disputed. The Customer agrees to pay the full amount on the date it is due less the value disputed.

31.0 Discrepancies

The Company may supply a varying quantity of unascertained goods

32.0 Unpaid Seller's Rights

The Company expressly reserves the right of resale in case the Customer should make default, and, on the Customer making default the Company may resell the goods. The original contract of sale is thereby rescinded, but without prejudice to any claim the Company may have for damages.