

**ELECTRICAL SERVICES & PROJECTS LTD (“THE COMPANY”)
STANDARD TERMS & CONDITIONS**

1. APPLICATION

These terms of trading apply to every offer quotation acceptance and contract for the sale and supply of goods (including services ancillary thereto) by the Company and supersede any other terms appearing in any catalogue of the Company or elsewhere and override and exclude any other terms stipulated or incorporated or referred to by the Customer and any course of dealing established between the Company and the Customer. The Customer acknowledges that there are no representations outside these terms which have induced him to enter into the contract (which expression shall include any contract of which these terms form part).

- (a) The individual firm company or other party which whom the Company contracts in called “the Customer”.
- (b) Goods mean the goods which are to be supplied by the Company pursuant to any contract with the Customer.

2. ACCEPTANCE AND ORDERS

Nothing contained in the Company's trade price lists shall be deemed to constitute an offer and no contract shall be concluded until the Company has given its confirmation of the Customer's order whether in writing or otherwise. The Company reserves the right to refuse or accept any orders. The placing of any order implies acceptance of these terms of trading and no alteration variation or cancellation of such terms shall be accepted unless duly authorised in writing by the Company. Any such alteration variation or cancellation so agreed shall have the same force and effect as these terms but all other terms and conditions proposed by the Customer are expressly excluded.

3. PRICE AND PRICE LISTS

- (a) The price of the Goods is exclusive of Value Added Tax which will be charged at the rate applicable at the appropriate tax point.
- (b) Where the price quoted in the Company's quotation or price list is based on stated quantities and /or specific delivery periods the Company reserves the right to vary the price of the Goods should the Customer order different quantities than those stated and/or require delivery over a different period.
- (c) All catalogues or price lists are intended for use by those in the trade and the prices and terms of trading are made available only to established dealers and stockists and the Customer shall not allow them to pass into other hands.
- (d) Prices and discounts published or notified in catalogues or price lists are subject to alteration at any time without notice and all orders are accepted on condition that they are charged at the prices ruling at the date of invoice.

4. DELIVERY AND RISK

- (a) Except where the Goods are supplied for export from the United Kingdom, delivery of the Goods shall be made to the Customer into the custody of the carrier named by the Customer and at the place as specified in the Company's acceptance of order and the risk in respect of all Goods shall pass to the Customer at the time of the delivery to the place specified. Delivery shall be made to the carrier in such manner as the transport mode and the quantity and/or nature of the goods may require.
- (b) Where damage to or loss of the Goods occurs in transit or error occurs in despatch and invoicing the delivery note must be endorsed accordingly. In addition the Customer must give written notice of such damage or loss with reasonable particulars thereof to the Company and the carrier (if other than the Company) within 7 days of the receipt of the Company's invoice or the carrier's delivery advice or other notification of despatch or if shorter the time limit specified by the carrier for notice of damage or loss and the Customer shall if requested by the Company at the Customer's cost promptly return any damaged Goods to the Company's premises or to such other place as the Company may from time to time notify to the Customer.
- (c) Unless the Customer gives notice as specified under sub clause (b) of this Clause, the Goods will be deemed to be delivered in accordance with the contract and in perfect order and the Customer will make payment accordingly.
- (d) Where the Goods are not supplied directly by the Company and are delivered direct to the customer or collected by the Customer from the manufacturer or supplier the Company shall not be liable for any damage to or loss of Goods whatsoever or whosoever occurring.
- (e) Save as expressly provided in this clause the Company shall not have any liability whatsoever for or in connection with any damage to or loss of the Goods in transit to the contracted place of delivery.

5. TITLE

- Until the contract price of the Goods comprised in this or any other contract between the Company and the Customer shall have been paid or satisfied in full:
- (a) The title to and the property in the Goods shall remain vested in the Company (notwithstanding the delivery of the same and the passing of the risk therein).
 - (b) The Company may at any time recover and resell the Goods as the property of the Company (if in the Customer's possession or under its control). For the purpose of exercising its rights under this sub-clause (b) the Company its servants for agents together with all necessary and appropriate transport shall be entitled to free and unrestricted entry upon the Customer's premises and/or all other locations where the Goods are situated. Demand for or recovery of the Goods or documents by the Company shall not of itself discharge the Company's liability to pay the whole of the price and take delivery of the Goods or the Company's right to sue for the whole of the price.
 - (c) The Customer shall hold the Goods on behalf of the Company. The Customer shall store the Goods for the Company in a proper manner without charge to the Company. The Company shall be entitled to examine the Goods in storage at any time during normal business hours and upon giving the Customer reasonable notice thereof. The Customer shall store the Goods in such a way as to indicate clearly that they are the Company's property, shall keep them fully insured against fire and theft and shall notify the Company's interest to his insurers.
 - (d) The Customer is hereby authorised to sell the Goods in the ordinary course of its business on behalf of the Company but the Customer's rights of resale shall automatically cease upon the occurrence of any event referred to in clause 14 and/or if any sum owed by the Customer to the Company under any contract is not paid on the due date of payment.
 - (e) Upon the resale of the Goods by the Customer the proceeds of sale thereof shall be received and held by the Customer in trust for the Company but after payment to the company of all amounts due to it under the contract the Customer shall be entitled to retain the balance.
 - (f) Nothing in this clause shall:
 - (i) Entitle the Customer to return the Goods or to delay payment for them or
 - (ii) Constitute or be deemed to have constituted the Customer as an agent of the Company
 - (iii) Authorise the Customer to give or to make any representation or warranty to a third party in relation to the Goods which shall be binding on the Company unless the Company shall have authorised the Customer so to do in writing.
 - (g) The rights and remedies conferred upon the Company by this clause are in addition to and shall in no way prejudice limit or restrict any other right or remedies of the Company under the contract.
 - (h) The whole of the price shall not be treated as paid until any cheque or bill of exchange or other instrument of payment given by the Customer has been met on presentation or otherwise honoured in accordance with its terms. The Company may sue for the whole of the price at any time after it has become payable.

6. PERFORMANCE

- (a) The Company will use its reasonable endeavours to comply with any date for despatch or delivery of the goods as stated in the contract but unless the contract otherwise expressly provides such date or dates shall constitute only statements of expectation and shall not be binding. If the Company having used its reasonable endeavours fails to deliver the Goods by such date or dates such failures shall not constitute a breach of contract nor (save as provided by sub-clause (b)) shall the Customer be entitled to treat the contract as thereby repudiated or to rescind it or any other contract in whole or in part or claim compensation for such failure or for any consequential loss or damage resulting therefrom.
- (b) If the performance of the contract by the Company shall be delayed for more than 60 consecutive days the Customer shall be entitled to give no less than fourteen days notice in writing to the Company to terminate the contract or to cancel any outstanding part thereof and in such circumstances the Customer shall pay the contract price for all Goods supplied on or before the actual date of termination but shall have no other remedy for any delay in delivery of Goods.
- (c) Where Goods are delivered by instalments or the company makes a part delivery each instalment or part delivery shall be deemed to be supplied under a separate contract to which these conditions shall apply (mutatis mutandis) and in particular payment shall be made in respect of the Goods actually delivered in accordance with the terms hereof.
- (d) Where Goods are to be supplied or delivered by the Company in accordance with periodic delivery schedules or similar notification of the delivery requirements of the Customer the Customer shall not be entitled to cancel or vary any such delivery schedule or requirement which is expressed by the Customer to be a firm requirement without the prior consent of the Company and the Company shall be entitled to reimbursement of any additional costs and expenses incurred or suffered as a result of such cancellation or variation.
- (e) If performance of the contract is suspended at the request of or delayed through default of the Customer including (without prejudice to the generally of the foregoing) lack of incomplete or incorrect instructions or refusal to accept delivery of the Goods for a period of seven days or more, the Company shall be entitled to payment at the contract rate for Goods supplied or ordered and any other costs thereby incurred including storage and insurance PROVIDED THAT if the Customer shall fail to collect or accept delivery of the Goods or any part thereof within twenty eight days of written notification from the Company that Goods are ready for collecting or delivery the Company shall be entitled (without prejudice to its remedies under the contract for such breach) to sell the Goods elsewhere and to apply the proceeds of sale thereof towards payment of all sums due to the Company under the contract.
- (f) Should the Company be prevented from or hindered in delivering the Goods or any part thereof by reason of war, riot, explosion, fire, flood, strike, lock out, shortage of materials or labour or any cause beyond the Company's control, the time for delivery shall be extended by a period equal to that during which the cause preventing or hindering delivery exists.
- (g) Should the Company be prevented from delivering part of the Goods by reason of the causes specified in the preceding sub-clause (f) the Company shall deliver and the Customer shall take and pay for such part of the Goods as the Company shall be able to deliver in accordance with the contract.
- (h) The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any or the Company's obligations in relation to the Goods, if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the Company's reasonable control:
 - (i) Act of God, explosion, flood, tempest, fire or accident
 - (ii) War or threat of war, sabotage, insurrection, civil disturbance or requisition;
 - (iii) Acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - (iv) Import or export regulations or embargoes;
 - (v) Strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Company or of a third party);
 - (vi) Difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - (vii) Power failure or breakdown in machinery.

7. ACCEPTANCE

Without prejudice to the Customer's rights under clause 10 the Customer shall be deemed to have accepted the Goods as being in conformity with the contract and shall be bound to pay for them unless written notice of rejection thereof is received by the Company within seven days of delivery save in the circumstances referred to in clause 10 Goods accepted by the customer cannot subsequently be returned. If after notice of rejection has been given the Customer deals with the Goods as owner thereof or if any conduct of the Customer is inconsistent with such rejection or with the ownership of the Goods by the Company the Customer shall be deemed to have accepted them and be bound to pay the contract price.

8. REFERENCES

Each contract shall be subject to the Company being satisfied as to the Customer's credit references (which unless otherwise stated shall be one bank reference and two trade references).

9. PAYMENT

- (a) Unless the contract otherwise provides, the contract price for Goods shall be payable by Customers to whom the Company has granted credit accounts not more than thirty days following the date of the company's invoice. In other cases, invoices shall be payable on completion of works.
- (b) The time stipulated for payment shall be of the essence of the contract and failure to pay within the period specified shall entitle the Company to suspend further deliveries of the Goods pending payment without prejudice to any other remedy available to the Company.
- (c) If delivery has been suspended because of the Customer's failure to pay another order payment is due as soon as the Company has notified the Customer that the Goods are available for delivery.
- (d) Unless otherwise agreed in writing the Customer shall not be entitled to set off against any monies due to the Company under the contract any amount claimed by or due to the Customer by the Company whether pursuant to the contract or on any other account whatsoever.
- (e) The Company shall be entitled to charge interest on the amount outstanding on an account from the due date of payment until actual date of payment at the rate of eight per centum per month above the NatWest base rate and in the event of an account being passed for collection, a collection charge of five per centum will be levied on such account in addition to any legal charge & interest payable.
- (f) The failure of the Customer to pay any part of the price of the Goods in due time shall be a breach of condition entitling the Company to treat that failure as a repudiation of the whole contract by the Customer and to recover damages for such breach.

10. DEFECTS AND SHORTAGES

- (a) The Company reserves the right to inspect all allegedly defective products before replacement and will not accept the return of Goods made specially and correctly to order or return later than 12 months after delivery or return of any kind if not in a clean saleable condition. The Company shall not be liable for any loss or damage to Goods which are returned by a carrier selected by the Customer.
- (b) If on the opinion of the Company the Goods returned are defective and the defect is due to faulty workmanship or materials or to some other factor within its control the Company shall at its option either replace the same or credit the Customer with the value thereof.
- (c) The Company's entire liability in respect of the Goods, and the Company's liability under these terms shall be in lieu and to the exclusion of all other warranties conditions terms and liabilities express or implied statutory or otherwise in respect of the quality of the goods for any particular purpose of the Goods or otherwise whatsoever except any implied by law which by law cannot be excluded. Save as provided in these terms and except as aforesaid the Company shall not be under any liability, whether in contract or otherwise. In respect of defects in the Goods or failure to correspond to specification or sample or for any injury damage or loss resulting from such defects of failure or from any work done in connection herewith. The Company shall not in any circumstances have any liability to the Customer for any consequential loss or damage or loss of profit suffered by the Customer.
- (d) The Customer may not make claim in respect of any alleged defect or alleged shortage in the Goods unless he has given written notice thereof to the Company, where a defect is alleged within 3 days of its discovery or, where a shortage is alleged, within 7 days of delivery.

11. LIMITATION OF LIABILITY

[The Company's liability (if any) whether in contract tort or otherwise in respect of any defect in the Goods, or for any breach of this contract or of any duty owed to the Customer in connection herewith shall be further limited in the aggregate to the total net price of the value of the defective Goods sold under the contract in question]

12. CANCELLATION BY THE CUSTOMER

The Customer may not cancel the contract without the Company's consent which if given shall be deemed to be on the express condition that the Customer shall indemnify the Company against all loss, damage, claims or actions arising out of such cancellation unless otherwise agreed in writing. In the event that Goods are returned or the Customer refuses to accept delivery the Customer will be charged in full at contract price. The Company shall charge reasonable storage and interest costs for the period the Goods are held.

13. RETURNS

The Customer must notify the company by telephone before making any returns of defective goods and must not make any returns without being issued with a returns authorisation number by the Company. Any returns must be accompanied by a completed returns form as from time to time required by the Company and the returns authorisation number must be quoted. All returned goods must be returned carriage paid. No returns will be accepted of goods that are not defective, and no goods will be supplied on a sale or return basis. Any Goods supplied by the Company correctly to the Customer's order are liable to a handling charge of twenty five per centum of the contract price.

14. EXPORT TERMS

- (a) In these terms "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning as these terms, but if there is any conflict between the provisions of Incoterms and their terms, the latter shall prevail.
- (b) Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 14 shall (subject to any special terms agreed in writing between the Company and Customer) apply notwithstanding any other provision of these terms.
- (c) The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- (d) Unless otherwise agreed in writing between the Customer and the Company, the Goods shall be delivered FCA the air or seaport of shipment and the Company shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.
- (e) The Customer shall be responsible for arranging for testing and inspection of the Goods at the Company's premises before shipment. The Company shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.
- (f) Payment of all amounts due to the Company shall be made by irrevocable letter of credit opened by the Customer in favour of the Company and confirmed by a bank acceptable to the Customer or, if the Company has agreed in writing on or before acceptance of the Customer's order to waive this requirement, by acceptance by the Customer and delivery to the Company of a bill of exchange drawn on the Customer payable 60 days after sight to the order of the Company at such branch of the National Westminster Bank in England as may be specified in the bill of exchange.

15. INSOLVENCY AND BREACH OF CONTRACT

- (a) If the Company receives information from which it appears that the Customer may be unable to pay his debts the Company shall be entitled to demand security prior to delivery as by payment in cash or by a bank guarantee notwithstanding any terms or payment previously agreed and in the event that the Customer is unable to provide such security, the Company shall without prejudice to any other right or remedy available to it be entitled to withdraw from the contract without liability.
- (b) If the Customer shall make default or commit breach of a contract or any other of his obligations to the Company or if any distress or execution shall be levied upon the Customer's property or asset or if the Customer shall make or offer any arrangement or composition with his creditors or commit any act of bankruptcy or if any petition or receiving order in bankruptcy shall be presented or made against him or if the Customer is a limited company and any resolution or petition to wind-up the Customer's business or to appoint an administrator thereof shall be passed or presented or if a receiver of the undertaking property or assets or any part thereof of the Customer (being a limited Company) shall be appointed, then the Company may without prejudice to any other right or remedy available to it without notice:
 - (i) Suspend or determine the contract or any unfulfilled part thereof and
 - (ii) Stop any Goods in transit
 - (iii) Recover any Goods from the customer's premises for which payment has not been made in full.

16. PATENTS / TRADEMARKS

The Goods are sold subject to the rights of any person, whether in respect of any patent, trademark, registered design, copyright, confidential disclosure or otherwise however to prevent or restrict the offer of the Goods in any part of the world and Customer will in this respect accept such title to the Goods as the Company may have.

17. ASSIGNMENT

The benefit of the contract shall not capable of assignment by the Customer.

18. WAIVER

The rights and remedies of the Company under the contract shall not be diminished, waived or extinguished by the granting of any indulgence, fore bearing or extension of time by the Company nor by any failure or delay by the Company in asserting or exercising any such rights and remedies.

19. SEVERANCE

If at any time any one or more of the provisions of these conditions becomes invalid, illegal or unenforceable in respect under any law, the validity and enforceability of the remaining provisions shall not in any way be affected thereby.

20. NOTICES

Any notice given under or pursuant to the contract may be sent by hand or by post or by registered post or by the recorded delivery service or transmitted by telex, facsimile or other means of telecommunications resulting in the receipt of a written communication in permanent form and if sent or transmitted to the address of the party shown on the face hereof, or to such other address as the party may by notice to the other have substituted thereof shall be deemed effectively given on the day when in the ordinary course of the means of transmission it would first be received by the address in normal business hours.

21. PROPER LAW

The contract shall be governed by and interpreted by English law and the Customer submits to the jurisdiction of the High Court of Justice in England but the Company may enforce the contract in any court of competent jurisdiction.