

TERMS & CONDITIONS OF TRADE

- 1. Definitions**
 - 1.1 "CCEL" shall mean Chris & Co Electrical Limited, or any agents or employees thereof.
 - 1.2 "Customer" shall mean the Customer, any person acting on behalf and with the authority of the Customer, or any person purchasing goods and services from CCEL.
 - 1.3 "Goods" shall have the same meaning as in s.2 of the Sale of Goods Act 1908 and are goods supplied by CCEL to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined).
 - 1.4 "Services" shall mean all services supplied by CCEL to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of "Goods" as defined in 1.3 herein).
 - 1.5 "Goods and Services" shall also mean all goods, products, services and advice provided by CCEL to the Customer and shall include without limitation the design, manufacture, development, sale, installation, repair and maintenance of electrical products and related services, materials, equipment and the supply of componentry and parts and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Goods and Services by CCEL to the Customer.
 - 1.6 "Price" shall mean the cost of the Goods and Services as agreed between CCEL and the Customer and includes all disbursements e.g. charges CCEL pay to other parties on the Customer's behalf subject to clause 4 herein.
 - 1.7 "Variation" shall mean an instruction or direction from the Customer or any other circumstance or event which results in an increase, decrease or change to the scope, schedule, specification, design, nature, extent, delivery, quantities or quality of the Goods and Services or any change in law, rule or regulation and/or safety requirements which will have an impact on the Goods and Services.
- 2. Acceptance**
 - 2.1 Any instructions received by CCEL from the Customer for the supply of Goods or Services shall constitute acceptance of the terms and conditions contained herein.
 - 2.2 These terms and conditions together with any letter of engagement (where provided) from CCEL shall constitute the entire agreement between the parties and shall apply to all, and all future, orders for Goods and Services the Customer makes with CCEL. Any terms to the contrary of these terms and conditions shall not apply.
 - 2.3 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
 - 2.4 Where the Customer is a trust or company, each trustee or director (as the case may be) of the Customer warrants that they are authorised to enter into this agreement on behalf of the Customer.
 - 2.5 Upon acceptance of these terms and conditions by the Customer the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of CCEL.
 - 2.6 None of CCEL's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of CCEL in writing nor is the Customer bound by any such unauthorised statements.
- 3. Scope of Work & Variations**
 - 3.1 The Goods and Services CCEL is to provide to the Customer are subject to the terms and conditions contained herein and outlined in any engagement from CCEL.
 - 3.2 All instructions, notices, agreements, authorisation's, variations, approvals and acknowledgements relating to Goods and Services provided by CCEL shall be in writing. If for any reason the Customer requires to give instructions to CCEL verbally in the first instance, CCEL shall comply with such instruction. Any such oral instructions shall be confirmed in writing as soon as possible under the circumstances, provided that, if CCEL confirms in writing any such oral instruction, which is not contradicted by the Customer without undue delay, it shall be deemed to be an instruction in writing by the Customer.
 - 3.3 All Variations must be agreed in writing in accordance with clause 3.2.
 - 3.4 The parties shall use their best endeavours to agree to the scope of any Variation including the impact of the Variation on the Price and any date of delivery/completion.
 - 3.5 A deposit may be required. Where a deposit is required, the deposit shall be paid as set out in clause 6.1 herein and CCEL may at its sole discretion delay the delivery of any Goods and Services pending receipt of the deposit.
- 4. Collection and Use of Information**
 - 4.1 The Customer authorises CCEL to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this agreement, or marketing any Goods and Services provided by CCEL to any other party.
 - 4.2 The Customer authorises CCEL to disclose any information obtained to any person for the purposes set out in clause 4.1.
 - 4.3 Where the Customer is a natural person the authorities under clauses 4.1 and 4.2 are authorities or consents for the purposes of the Privacy Act 1993.
- 5. Price**
 - 5.1 All prices are exclusive of G.S.T., freight costs and any other applicable taxes and duties.
 - 5.2 Where no price is stated in writing or agreed to orally the Goods and Services shall be deemed to be sold at the current amount as such Goods and Services are sold by CCEL at the time of the agreement.
 - 5.3 The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods and Services that is beyond the control of CCEL between the date of the agreement and delivery of the Goods and Services.
- 6. Payment**
 - 6.1 Unless otherwise agreed payment for Goods and Services shall be made in full on or before seven (7) days following the date of the invoice.
 - 6.2 Payments not made on due date may, at CCEL's sole discretion bear interest from the date of the invoice at the rate of 2.5% per month until paid (or at such rate as shall be in force at the date of the invoice).
 - 6.3 Any expenses, disbursements and legal costs incurred by CCEL in the enforcement of any rights contained in this agreement shall be paid by the Customer, including but not limited to solicitor's fees on a solicitor-client basis and/or debt collection agency fees.
 - 6.4 Receipt of a cheque, bill of exchange, or any other negotiable instrument shall not constitute payment until such negotiable instrument is cleared and paid in full.
 - 6.5 The Customer must make payment of all prices and charges without set-off of deduction of any kind.
- 7. Quotation**
 - 7.1 Unless stated in writing, an estimate provided by CCEL is not a quotation.
 - 7.2 Where a quotation is given by CCEL it:
 - 7.2.1 is valid for thirty (30) days from the date of issue; and
 - 7.2.2 shall be exclusive of Goods and Services Tax unless specifically stated to the contrary; and
 - 7.2.3 may be withdrawn at any time before acceptance; and
 - 7.2.4 is upon the basis that reasonable access to the property or premises is available to CCEL to perform their obligations. If such access is not available an extra charge for handling may be added.
 - 7.3 Where Goods and Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such goods.
- 8. Risk**
 - 8.1 Unless otherwise agreed the Customer assumes the risk of loss or damage upon collection from CCEL or when delivery is complete.
 - 8.2 Collection includes collection by any authorised carrier sent by the Customer.
 - 8.3 Delivery is deemed complete when CCEL gives possession of the Goods and Services directly to the Customer or when the Goods and Services are delivered to the site.
- 9. Title and Security**
 - 9.1 Title in any Goods and Services supplied by CCEL passes to the Customer only when the Customer has made payment in full for all Goods and Services provided by CCEL and all other sums due to CCEL by the Customer on any account whatsoever. Until all sums due to CCEL have been paid in full, CCEL has a security interest in all Goods and Services.
 - 9.2 If the Goods and Services are attached, fixed or incorporated into any property of the Customer, by way of any manufacturing or assembly process by CCEL, the Customer or any third party, title in the Goods and Services shall remain with CCEL until the Customer has made payment for all the Goods and Services, and where those Goods and Services are mixed with other property so as to be part of a constituent of any new Goods and Services, title to these new Goods and Services shall be deemed to be assigned to CCEL as security for the full satisfaction by the Customer of the full amount owing between CCEL and the Customer.
 - 9.3 The Customer gives irrevocable authority to CCEL to enter any premises occupied by the Customer or on which Goods and Services are situated at any reasonable time after default by the Customer or before default if CCEL believes a default is likely and to remove and repossess any Goods and Services and any other property to which Goods and Services are attached or in which Goods and Services are incorporated. CCEL shall not be liable for costs, damage, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. CCEL may either resell any repossessed Goods and Services and credit the Customer's account with the net proceeds of the sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and Services and credit the Customer's account with the invoice value thereof less such sum as CCEL reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
 - 9.4 Where Goods and Services are retained by CCEL pursuant to clause 9.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
 - 9.5 CCEL may register a Financial Statement over the Goods and the Customer shall agree to waive the right to a verification statement for the purposes of s.148 of the PPSA.
 - 9.6 The following shall constitute defaults by the Customer:
 - 9.6.1 Non-payment of any sum by the due date.
 - 9.6.2 The Customer intimates that it will not pay any sum by the due date.
 - 9.6.3 Any Goods and Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods and Services.
 - 9.6.4 Any Goods and Services in the possession of the Customer are materially damaged while any sum due from the Customer to CCEL remains unpaid.
 - 9.6.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distrains against any of the Customer's assets.
 - 9.6.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
- 10. Security Interest for Service Providers**
 - 10.1 The Customer gives CCEL a security interest in all of the Customer's present and after-acquired property that CCEL had performed services on or to or in which goods or materials supplied or financed by CCEL have been attached or incorporated.
- 11. Payment Allocation**
 - 11.1 CCEL may in its discretion allocate any payment received from the Customer towards any invoice that CCEL determines and may do so at the time of receipt or at any time afterwards and on default by the Customer may reallocate any payments previously received and allocated. In the absence of any payment allocation by CCEL, payment shall be deemed to be allocated in such manner as preserves the maximum value of CCEL's purchase money security interest in the Goods and Services.
- 12. Cancellation**
 - 12.1 CCEL shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part any contract for the supply of Goods or Services to the Customer if the Customer fails to pay any money owing after the due date or if any of the following occur:
 - 12.1.1 The Customer commits an act of bankruptcy as defined in sections 17 to 28 of the Insolvency Act 2006; or
 - 12.1.2 The Customer receives a notice of any winding up proceedings against the Customer pursuant to the Companies Act 1993; or
 - 12.1.3 The Customer is put into receivership; or
 - 12.1.4 The Customer receives notification that any other person intends to put the Customer into receivership; or
 - 12.1.5 The Customer appoints a liquidator by director's / shareholder's resolution or a liquidator is appointed.
 - 12.2 Any cancellation or suspension under clause 12.1 of this agreement shall not affect CCEL's claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this agreement or your obligations to us under this agreement
- 13. Disputes**
 - 13.1 No claim relating to Goods and Services will be considered unless made within seven (7) days of delivery.
 - 13.2 CCEL retains the option to repair or replace and Goods or Services at their discretion.
- 14. Existing Hidden Utilities**
 - 14.1 Prior to CCEL commencing any works, the Customer must advise CCEL of the precise location of all existing and hidden utility services on the site/premises and clearly mark the same. The existing and hidden utilities the Customer must identify include, but are not limited to, electrical, gas, sewer and pumping services, sewer connections and mains, water connections and mains, irrigation pipe, telephone, fibre optic cables.
 - 14.2 Whilst CCEL will take all care to avoid damage to any existing or hidden utilities, the Customer agrees to indemnify CCEL in respect of all liability claims, loss, damage, costs and fines as a result of damage to utilities not precisely located and notified pursuant to clause 14.1 herein.
- 15. Liability and Indemnification**
 - 15.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon CCEL which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on CCEL, CCEL's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
 - 15.2 Except as otherwise provided by clause 15.1 CCEL shall not be liable for:
 - 15.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Goods and Services by CCEL to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or in tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods and Services provided by CCEL to the Customer; and
 - 15.2.2 The Customer shall indemnify CCEL against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of CCEL or otherwise, brought by any person in connection with any matter, act, omission, or error by CCEL its agents or employees in connection with the Goods and Services.
 - 15.3 The Customer accepts and acknowledges that CCEL shall not be responsible or liable for any damage that may arise during the installation of light switches in the event that any third party contractor employed by the Customer has removed any or all reference to the positioning of light switches be either gifting or plastering the designed area. The Customer accepts that installation of light switches will then be at the sole discretion of CCEL.
 - 15.4 CCEL shall be entitled to rely upon the accuracy of any plans, specifications and any other information provided by the Customer. The Customer acknowledges and accepts that in the event that any plans, specifications or other information provided by the Customer is inaccurate, CCEL shall not be liable for any loss, damages or costs however resulting from the inaccurate plans, specifications or other information.
 - 15.5 Except as expressly provided in these terms of trade, all warranties, undertakings, inducements or representations whether express, implied, statutory or otherwise relating in any way to the Goods and Services are, to the maximum extent permitted by law, expressly excluded.
 - 15.2
- 16. General Lien**
 - 16.1 The Customer agrees that CCEL may exercise a general lien against any goods or property belonging to the Customer that is in CCEL's possession for all sums outstanding under this agreement and any other agreement to which the Customer and CCEL are parties.
 - 16.2 If the lien is not satisfied within seven (7) days of the due date CCEL may, having given notice of the lien, at CCEL's option either:
 - 16.2.1 Remove such goods or property and store them in such place and in such manner as CCEL shall think fit and proper and at the risk and expense of the customer; or
 - 16.2.2 Sell such goods or property or part thereof upon such terms as CCEL shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.
- 17. Warranty**
 - 17.1 Manufacturer's warranty applies where applicable.
 - 17.2 Any written warranty provided by CCEL to the Customer shall also form part of these terms and conditions of trade.
- 18. Copyright and Intellectual Property**
 - 18.1 CCEL owns and has copyright in all designs, specifications, documents, software, work and know-how produced by CCEL in connection with the Goods and Services provided pursuant to this agreement and the Customer may use the Goods and Services only if paid for in full and for the purpose for which they were intended and supplied by CCEL.
 - 18.2 The Customer acknowledges that the designs, specifications, documents, software, work and know-how as set out in clause 18.1 herein are confidential information and the Customer shall not:
 - 18.2.1 use the confidential information for any other purpose other than the performance of its obligations under any agreement with CCEL; and
 - 18.2.2 copy, reproduce, make records or take extracts from confidential information; and
 - 18.2.3 disclose any confidential information to any third party without the express written authority of CCEL.
- 19. Consumers Guarantees Act**
 - 19.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods and Services from CCEL for the purposes of a business in terms of section 2 and 43 of that Act.
- 20. Personal Guarantee of Company Directors or Trustees.**
 - 20.1 If the Customer is a company or trust, the director(s) or trustee(s), in consideration for CCEL agreeing to supply Goods and Services and grant credit to the Customer at their request, also accept liability in their personal capacity and jointly and severally personally undertake as principal debtors to CCEL the payment of any and all monies now or hereafter owed by the Customer to CCEL and indemnify CCEL against non-payment by the Customer. Any personal liability of a director or trustee shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this agreement. The director(s) and trustee(s) and Customer shall be jointly and severally liable under the terms and conditions of this agreement and for payment of all sums due hereunder.
 - 20.2 The Customer may be required by CCEL to provide a parent company guarantee, bonds and/or other financial guarantees.
- 21. Force Majeure**
 - 21.1 Neither party shall be considered in breach of its obligations or liable to a party if it fails to perform or delays in performance of any obligation as a result of an event beyond its reasonable control. An event beyond its reasonable control shall include but not be limited to: strikes, industrial disputes, fire, flood, acts of god, war, vandalism, sabotage, riot, national emergency, embargoes or restraints, adverse or extreme weather conditions, traffic conditions, temporary closure of roads, legislations, order or other act of government.
 - 21.2 The occurrence of a Force Majeure event shall not excuse the Customer from making any payments due to CCEL for work satisfactorily completed prior to the event of Force Majeure and/or agreed standby time/rates and/or any demobilization costs incurred as a result of the said event of Force Majeure.
 - 21.3 Should the Force Majeure event continue for longer than ten (10) days, the parties shall meet to discuss the impact on and the future performance of the Goods and Services.
- 22. Miscellaneous**
 - 22.1 Failure by CCEL to enforce any of the terms and conditions contained in this contact shall not be deemed to be a waiver of any of the rights or obligations CCEL has under this agreement.
 - 22.2 If any of this agreement shall be invalid, void or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
 - 22.3 Where these terms and conditions are at variance with the order or instructions from the Customer these terms and conditions of trade shall prevail.
 - 22.4 CCEL reserves the right to review these terms and conditions at any time. If following any such review, there is to be a change to these terms and conditions, then that change will take effect from the date on which CCEL notifies the Customer in writing of such change.
 - 22.5 These terms & conditions of trade are governed by the New Zealand Law and is subject to the jurisdiction of the Courts of New Zealand.