

## Terms and Conditions

### 1. Definitions and Interpretation

1.1 In these **Terms** and **Conditions**, the following words shall have the following meanings:

“**Company**” means J.R. Forbes Electrical Ltd the registered office of which is situated at 8 Briary Gardens, Shotley Bridge, County Durham, DH8 0RE Company Registration Number 05012375.

“**Conditions**” means the terms and conditions referred to within this document.

“**Contract**” means the Company's acceptance of the Customer's offer to purchase the Services in accordance with condition 2.2.

“**Customer**” means the person, firm or company who purchases services from the Company.

“**Quotation**” a quotation for Services provided by the Company to the Customer.

“**Relevant Premises**” means the premises at which the Services are being provided.

“**Services**” means electrical works and subsequent installation to be provided by the Company to the Customer as detailed in the Quotation.

“**VAT**” means value added tax or any other tax of a similar nature.

1.2 A Person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.3 Any obligation in the Contract on a person not to do something includes, without limitation, an obligation not to agree, allow or permit that thing to be done.

### 2. Incorporation of Conditions

**2.1** These Conditions shall:

- a) apply to and be incorporated into the Contract;
- b) prevail over any inconsistent terms or conditions contained or referred to in any confirmation of order, acceptance of a quotation, or implied by law, trade custom, practice or course of dealing.

**2.2** The Customer's acceptance of a Quotation by the Company or provision of purchase order constitutes an offer by the Customer to purchase the Services in accordance with these Conditions. The Company may only accept the Customer's offer by providing an acknowledgement of the purchase order or by commencing the Services at which point a Contract will be established subject to these Conditions.

### **3. Commencement of Services and Duration**

**3.1** The Company shall provide the Services to the Customer under the Contract as soon as is reasonably practicable following the Company's acceptance of the Customer's offer in accordance with Condition 2.2.

**3.2** Subject to the termination provisions at Condition 8, the Services will be supplied for such period as is required to provide the agreed Services.

**3.3** Until such time that the Company has received full payment (in cleared funds) of all and any sums due to it the ownership of any materials installed at the Relevant Premises will remain with the Company.

**3.4** The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises following termination of the Contract to recover any materials or the Company's equipment.

**3.5** The Company's normal business hours are Monday- Friday 8.00am until 18.00pm (excluding bank holidays). The Company reserves the right to make additional charges for the supply of Services outside of its stipulated business hours.

### **4. Company Covenants**

- 4.1** The Company shall use its reasonable endeavours to provide Services in accordance with the Contract.
- 4.2** The Company shall use reasonable endeavours to comply with any estimated timescales provided in its Quotation, notwithstanding the fact that time is not of the essence in provision of the services.

## **5. Customer Covenants**

- 5.1** The Customer will:
- (a) co-operate with the Company in all matters relating to the Services;
  - (b) provide all information requested by the Company in a timely manner ensuring that it is accurate in all material respects;
  - (c) notify the Company of concealed pipes, wires and cables for water, gas, electricity, telephone or other installation affecting the Relevant Premises and confirm the accurate location of any such pipes, wires and cables prior to the Company commencing work on the Services;
  - (d) meet all costs in connection with the preparation and maintaining of the Relevant Premises for the supply of the Services;
  - (e) ensuring that any obstructions within the Relevant Premises are removed prior to the Company commencing the Services including lifting or relaying carpet or tiles if necessary and ensuring that free access is available to ceiling and /or floor void is available;
  - (f) pay all invoices and monies on account in accordance with these Conditions;
  - (g) ensure that access is freely available to the Relevant Premises for the Company, its agents, sub-contractors consultants and employees in a timely manner;
  - (h) inform the Company of all health and safety rules and regulations that apply to the Relevant premises;
  - (i) ensure that any of the Customer's equipment which will be used by the Company is in good and safe working order and fit for the intended purpose;
- 5.2** In the event the Company's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Company shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such delay.

- 5.3** The Customer shall be liable to pay to the Company, on demand, all reasonable costs (including legal or otherwise), charges, or losses sustained or incurred by the Company (including, without limitation), any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property, and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract, subject to the Company confirming such costs, charges, and losses to the Customer in writing.
- 5.4** The Customer must notify the Company of any problems with the Services within 30 days of completion of the Contract and the Company reserves the right entirely not to respond to complaints made outside this period and the parties agree that the Company will not be liable for any costs etc for defects notified outside this period.

## **6. Charges and Payment**

- 6.1** In consideration of the provision of the Services by the Company, the Customer shall pay the charges set out in the Quotation:
- (a) the charges payable for the Services shall be calculated in accordance with the Company's hourly rates and the cost of the materials; and
  - (b) all charges quoted to the Customer shall be exclusive of VAT.
- 6.2** The Company reserves the right to request payment on account of the cost of materials prior to commencing the supply of Services at the Relevant Premises. The Customer shall make such payments within 7 days of request by the Company or prior to commencement of the provision of Services, whichever is the sooner.
- 6.3** The Company may at its discretion choose to invoice the Customer on a weekly or monthly basis depending on the nature of the Services being supplied and/or in accordance with the percentage of the Services completed at that time.
- 6.4** If the Services are aborted for a reason outside the control of the Company the Customer shall be liable to the Company for the costs of all Services performed by the Company to the time that the Services are aborted. The Company shall issue an invoice for all Services to the Customer as soon as is reasonably practicable following the notification of Services being aborted.

- 6.5** The Customer shall pay each invoice submitted to it by the Company, in full and cleared funds, within 14 days of receipt by CHAPS or BACS payment to a bank account nominated by the Company. The Company will also accept payment by cash or cheque.
- 6.6** The Company reserves the right to charge for additional costs for Services being required by the Customer which are over and above those Services agreed in the Quotation.
- 6.7** Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Company on the due date, the Company may at its discretion:
- (a) charge interest on all sums outstanding from the due date for payment at the annual rate of 4% above the base lending rate of Lloyds Bank Plc from time to time, accruing on a daily basis. The Company may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;
  - (b) suspend all services until such time that payment is made in full; and
  - (c) recover any costs incurred by the Company in recovering any overdue amount.
- 6.8** Time for payment shall be of the essence of the Contract.
- 6.9** All sums payable to the Company shall be payable immediately on the termination of the Contract.
- 6.10** No payment shall be deemed to have been received until the Company has received cleared funds.

## **7. Limitation of Liability**

- 7.1** This Condition sets out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents, consultants and sub-contractors) to the Customer in regards:
- (a) any breach of the Contract;
  - (b) any use made by the Customer of the Services or any part of it; and
  - (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

**7.2** All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

**7.3** Nothing in these Conditions limits or excludes the liability of the Company:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Company; or
- (c) for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability.

**7.4** Subject to Condition 7.2 and 7.3:

(a) the Company shall not be liable for:

- (1) loss of profits;
- (2) loss of business;
- (3) depletion of goodwill and/or similar losses; or
- (4) loss of anticipated savings; or
- (5) loss of contract of the Customer;

(b) The Company's total liability in contract, tort, (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance of the Contract shall be limited to the price paid for the provision of the Services.

## **8. Termination**

**8.1** Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other on giving the other not less than 1 months written notice or immediately on giving notice to the other if:

- (a) the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment; or
- (b) the other party commits a breach of any of the terms of the Contract and (if such breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

(c) the other party shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 (or such relevant legislation which may be in force from time to time) or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditor or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 (or such relevant legislation which may be in force from time to time) or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administrative order (otherwise than for the purpose of an amalgamation or reconstruction).

**8.2** On termination of the Contract for any reason the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt.

## **9. Force Majeure**

**9.1** The Company shall have no liability to the Customer under the Contract if it is prevented from, or delayed in performing, its obligations under the Contract or from carrying on its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Company or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or government order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, or default of Company's sub-contractors.

## **10. Variation**

**10.1** No variation of the Contract or these Conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.

## **11. Waiver**

- 11.1** A waiver by the Company of any right under the Contract is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that (or any other) right or remedy or preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- 11.2** Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

## **12. Severance**

- 12.1** If any provision of the Contract (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of the Contract and the validity and enforceability of the other provisions of the Contract shall not be affected.

## **13. Entire Agreement**

- 13.1** The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

## **14. Notices**

- 14.1** Any notice or other communication required to be given under the Contract shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery to the other party and for the attention of the person specified in the Quotation or as otherwise specified by the relevant party by notice in writing to the other party.
- 14.2** Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to in the Quotation or, if sent by pre-paid first-class post or recorded delivery, on the second business day after posting.

## **15. Jurisdiction and Governing Law**



**15.1** This Agreement shall be governed by and construed in accordance with English law and the parties submit to the jurisdiction of the English courts