

1. Definitions

- 1.1 "Contract" means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 "Contractor" means Groombridge Electrical Limited, its successors and assigns.
- 1.3 "Customer" means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting the Contractor to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
 - (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
 - (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Customer is a part of a trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Customer's executors, administrators, successors and permitted assigns.
- 1.4 "Price" means the Price payable (plus any Goods and Services Tax ("GST") where applicable) for the Works as agreed between the Contractor and the Customer in accordance with clause 3 of this Contract.
- 1.5 "Works" means all Works performed and/or Materials provided by the Contractor to the Customer at the Customer's request from time to time (where the context so permits the terms 'Works' or 'Materials' shall be interchangeable for the other).

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of any Works.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.

3. Price and Payment

- 3.1 The Price shall be as indicated on invoices provided by the Contractor to the Customer in respect of the Works provided.
- 3.2 Time for payment for the Works shall be of the essence and will be stated on the invoice, quotation, or any other order forms. If no time is stated, then payment will be due seven (7) days following the date of the invoice.
- 3.3 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by the Contractor nor to withhold payment of any invoice because part of that invoice is in dispute.
- 3.4 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to the Contractor an amount equal to any GST the Contractor must pay for any provision of Works by the Contractor under this or any other agreement. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

4. Risk

- 4.1 If the Contractor retains ownership of the Materials under clause 5 then:
 - (a) where the Contractor is supplying Materials only, all risk for the Materials shall immediately pass to the Customer on delivery and the Customer must insure the Materials on or before delivery;
 - (b) where the Contractor is to both supply and install Materials then the Contractor shall maintain a contract works insurance policy until the Works are completed. Upon completion of the Works all risk for the Works shall immediately pass to the Customer.
- 4.2 Notwithstanding the provisions of clause 4.1, if the Customer specifically requests the Contractor to leave Materials outside the Contractor's premises for collection or to deliver the Materials to an unattended location then such materials shall always be left at sole risk of the Customer and it shall be the Customer's responsibility to ensure the Materials are insured adequately or at all. In the event that such Materials are lost, damaged or destroyed then replacement of the Materials shall be at the Customer's expense.

5. Title

- 5.1 The Contractor and the Customer agree that ownership of the Materials shall not pass until:
 - (a) the Customer has paid the Contractor all amounts owing to the Contractor; and
 - (b) the Customer has met all of its other obligations to the Contractor.

- 5.2 Receipt by the Contractor of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised, and until then the Contractor's right and ownership in relation to the Materials, and this Contract, shall continue.
- 5.3 It is further agreed that, until ownership of the Materials passes to the Customer in accordance with clause 5.1:
- (a) the Customer is only a bailee of the Materials and must return the Materials to the Contractor on request;
 - (b) the Customer holds the benefit of the Customer's insurance of the Materials on trust for the Contractor and must pay to the Contractor the proceeds of any insurance in the event of the Materials being lost, damaged or destroyed;
 - (c) the Customer must not sell, dispose, or otherwise part with possession of the Materials other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Materials then the Customer must hold the proceeds of any such act on trust for the Contractor and must pay or deliver the proceeds to the Contractor on demand;
 - (d) the Customer should not convert or process the Materials or intermix them with other Materials but if the Customer does so then the Customer holds the resulting product on trust for the benefit of the Contractor and must sell, dispose of or return the resulting product to the Contractor as it so directs;
 - (e) the Customer irrevocably authorises the Contractor to enter any premises where the Contractor believes the Materials are kept and recover possession of the Materials;
 - (f) the Contractor may recover possession of any Materials in transit whether or not delivery has occurred;
 - (g) the Customer shall not charge or grant an encumbrance over the Materials nor grant nor otherwise give away any interest in the Materials while they remain the property of the Contractor; and
 - (h) the Contractor may commence proceedings to recover the Price notwithstanding that ownership of the Materials has not passed to the Customer.

6. Personal Property Securities Act 1999 ("PPSA")

- 6.1 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that:
- (a) these terms and conditions constitute a security agreement for the purposes of the PPSA; and
 - (b) a security interest is taken in all Materials that have previously been supplied and that will be supplied in the future by the Contractor to the Customer and the proceeds from such Materials as listed by the Contractor to the Customer in invoices rendered from time to time.
- 6.2 The Customer undertakes to:
- (a) sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Contractor may reasonably require to register a financing statement or financing change statement on the Personal Property Securities Register;
 - (b) indemnify, and upon demand reimburse, the Contractor for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register or releasing any registration made thereby; and
 - (c) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Materials or the proceeds of such Materials in favour of a third party without the prior written consent of the Contractor.
- 6.3 The Contractor and the Customer agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these terms and conditions.
- 6.4 The Customer waives its rights as a debtor under sections 116, 120(2), 121, 125, 126, 127, 129, and 131 of the PPSA.
- 6.5 Unless otherwise agreed to in writing by the Contractor, the Customer waives its right to receive a verification statement in accordance with section 148 of the PPSA.
- 6.6 The Customer shall unconditionally ratify any actions taken by the Contractor under clauses 6.1 to 6.5.
- 6.7 Subject to any express provisions to the contrary (including those contained in this clause 6), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

7. Default and Consequences of Default

- 7.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Contractor's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 7.2 If the Customer owes the Contractor any money the Customer shall indemnify the Contractor from and against all costs and disbursements incurred by the Contractor in recovering the debt (including but not limited to internal

administration fees, legal costs on a solicitor and own client basis, the Contractor's collection agency costs, and bank dishonour fees).

- 7.3 Further to any other rights or remedies the Contractor may have under this Contract, if a Customer has made payment to the Contractor, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Contractor under this clause 7 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.

8. Security and Charge

- 8.1 In consideration of the Contractor agreeing to supply the Works, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, and the Customer grants a security interest in all of its present and after-acquired property, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The terms of the charge and security interest are the terms of Memorandum 2018/4344 registered pursuant to s.209 of the Land Transfer Act 2017.
- 8.2 The Customer indemnifies the Contractor from and against all the Contractor's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Contractor's rights under this clause.
- 8.3 The Customer irrevocably appoints the Contractor and each director of the Contractor as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 8 including, but not limited to, signing any document on the Customer's behalf.

9. Cancellation

- 9.1 Without prejudice to any other remedies the Contractor may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions the Contractor may suspend or terminate the supply of Works to the Customer. The Contractor will not be liable to the Customer for any loss or damage the Customer suffers because the Contractor has exercised its rights under this clause.
- 9.2 The Contractor may cancel any contract to which these terms and conditions apply or cancel delivery of Works at any time before the Works are commenced by giving written notice to the Customer. On giving such notice the Contractor shall repay to the Customer any sums paid in respect of the Price, less any amounts owing by the Customer to the Contractor for Works already performed. The Contractor shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 9.3 In the event that the Customer cancels the delivery of Works the Customer shall be liable for any and all loss incurred (whether direct or indirect) by the Contractor as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 9.4 Cancellation of orders for products made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

10. Privacy Policy

- 10.1 All emails, documents, images or other recorded information held or used by the Contractor is "**Personal Information**" as defined and referred to in clause 10.3 and therefore considered confidential. The Contractor acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 2020 ("the Act") including Part II of the OECD Guidelines and as set out in the Act. The Contractor acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customer's Personal Information, held by the Contractor that may result in serious harm to the Customer, the Contractor will notify the Customer in accordance with the Act. Any release of such Personal Information must be in accordance with the Act and must be approved by the Customer by written consent, unless subject to an operation of law.
- 10.2 Notwithstanding clause 10.1, privacy limitations will extend to the Contractor in respect of cookies where the Customer utilises the Contractor's website to make enquiries. The Contractor agrees to display reference to such cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to the Contractor when the Contractor sends an email to the Customer, so the Contractor may collect and review that information ("collectively Personal Information")

If the Customer consents to the Contractor's use of cookies on the Contractor's website and later wishes to withdraw that consent, the Customer may manage and control the Contractor's privacy controls via the Customer's web browser, including removing cookies by deleting them from the browser history when exiting the site.

- 10.3 The Customer authorises the Contractor or the Contractor's agent to:
- (a) access, collect, retain and use any information about the Customer;
 - (i) (including, name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history or any overdue fines balance information held by the Ministry of Justice) for the purpose of assessing the Customer's creditworthiness; or
 - (ii) for the purpose of marketing products and services to the Customer.
 - (b) disclose information about the Customer, whether collected by the Contractor from the Customer directly or obtained by the Contractor from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Customer.
- 10.4 Where the Customer is an individual the authorities under clause 10.3 are authorities or consents for the purposes of the Privacy Act 2020.
- 10.5 The Customer shall have the right to request (by e-mail) from the Contractor, a copy of the Personal Information about the Customer retained by the Contractor and the right to request that the Contractor correct any incorrect Personal Information.
- 10.6 The Contractor will destroy Personal Information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 10.7 The Customer can make a privacy complaint by contacting the Contractor via e-mail. The Contractor will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within twenty (20) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Privacy Commissioner at <http://www.privacy.org.nz>.

11. General

- 11.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 11.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.
- 11.3 Where applicable, nothing in this Contract is intended to have the effect of contracting out of the Consumer Guarantees Act 1993 (CGA). The Contractor shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by the Contractor of these terms and conditions (alternatively the Contractor's liability shall be limited to damages which under no circumstances shall exceed the Price).
- 11.4 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm, national or global pandemics and/or the implementation of regulation, directions, rules or measures being enforced by Governments or embargo, including but not limited to, any Government imposed border lockdowns (including, worldwide destination ports), etc, ("Force Majeure") or other event beyond the reasonable control of either party. This clause does not apply to a failure by the Customer to make a payment to the Contractor.
- 11.5 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.