

Terms and Conditions

1.0 Definitions

1. "Company" shall mean Luke Freeman Electrical Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Luke Freeman Electrical Pty Ltd.
2. "Customer" shall mean the Customer or any person acting on behalf of and with the written authority of the Customer.
3. "Work" shall mean all Works (including the supply of Materials) undertaken by the Company and described in this contract and includes any advice or recommendations.
4. "Materials" shall mean Materials required to complete the Works.
5. "Prime Cost Item" shall mean an item that either has not been selected, or whose Price is not known, at the time this contract is entered into and for the cost of supply and delivery of which the Company must make a reasonable allowance in the contract.
6. "Provisional Sum" shall mean an estimate of the cost of carrying out particular Works under this contract for which the Company, after making all reasonable inquiries, cannot give a definite Price at the time this contract is entered into.
7. "Price" shall mean the Price of the Works as agreed between the Company and the Customer.
8. "In writing" shall mean by email direct to luke@lukefreemanelectrical.com.au.

2.0 Acceptance

1. Any instructions received by the Company from the Customer for the supply of Works and/or the Customer's acceptance of Works undertaken by the Company shall constitute acceptance of the terms and conditions contained herein.
2. Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
3. Upon acceptance of these terms and conditions by the Customer, the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the Company.
4. None of the Company's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the Director of the Company in writing nor is the Company bound by any such unauthorised statements.

3.0 Variations

1. In the event that the Customer requests a variation all such requests shall be made in writing.
2. In the event that the Company requests a variation, the Company will, in writing;
 - (a) state the reason for the variation.
 - (b) provide a full description of the variation.
 - (c) state any effect the variation will have on the contract, including but not limited to, the Price, completion date and whether further permits or authorisations are required.
3. Other than for the events outlined in clause 3.4 and 3.5 the Company shall obtain written acceptance by the Customer of any variation submitted by the Company before commencing Work on the variation.
4. In the event of
 - (a) unforeseeable problems with the site which are only revealed when undertaking the Works which the Company considers should be rectified for the safe completion of the Works.
 - (b) the Company being instructed to undertake extra Works by any person authorised by the state or federal government: then the Company may carry out any Works needed to fix any such problem/s or carry out any such instructions. Any such additional Works necessary are to be treated as a variation. However if a Price is not agreed upon then the Customer will be charged at the Company's actual cost plus twenty percent (20%) for the Works.
5. The Company may by giving notice to the Customer at any time up to seven (7) days before delivery increase the Price of the Materials to reflect any increase in the cost to the Company beyond the reasonable control of the Company, (including, without limitation, foreign exchange fluctuations, taxes and duties, provisions of any Acts, By-Law, Order or Regulation of any parliament, municipality or local authority enacted after the date of contract between the Customer and Company and the cost of labour, materials and other manufacturing costs).

4.0 Price & Payment

1. At the Company's sole discretion the Price shall be either;
 - (a) as indicated on invoices provided by the Company to the Customer in respect of Works or Materials supplied; or
 - (b) the Company's quoted Price (subject to clause 3) which shall be binding upon the Company provided that the Customer shall accept the -
2. Company's quotation in writing within thirty (30) days.
3. At the Company's sole discretion a deposit may be required.
4. The Company value of work so performed shall include the reasonable value of authorised variations, whether or not the value of such variations has been finally agreed between the parties, and the value of materials delivered to the site but not installed.
5. Time for payment for the Works shall be of the essence and will be stated on the invoice. If no time is stated then payment shall be due three (3) days following the date of the invoice.
6. Payment will be made by cash or by direct deposit into the supplied Company account, or by any other method as agreed to between the Customer and the Company.

7. The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in the building contract schedule.

5.0 Delivery of works

1. Subject to clause 6.1 it is the Company's responsibility to ensure that the Works start as soon as it is reasonably possible.
2. The Works commencement date will be put back and the period extended by whatever time is reasonable in the event that the Company claims an extension of time (by giving the Customer written notice) where completion is delayed by an event beyond the Company's control, including but not limited to any failure by the Customer to:
 - (a) make a selection; or
 - (b) have the site ready for installation; or
 - (c) notify the Company that the site is ready.
3. The Works shall be deemed to be completed when the Works carried out under this contract have been completed in accordance with the plans and specifications set out in this contract; and
4. The failure of the Company to deliver shall not entitle either party to treat this contract as repudiated.
5. The Company shall not be liable for any loss or damage whatever due to failure by the Company to deliver the Works (or any of them) promptly or at all.

6.0 Customer's Responsibility

1. It is the intention of the Company and agreed by the Customer that;
 - (a) any building/construction sites will comply with all Queensland occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation; and
 - (b) the Company is not responsible for the removal of rubbish from or clean up of the building/construction site/s. This is the responsibility of the Customer or the Customer's agent.

7.0 Risk

If the Company retains ownership of the Materials nonetheless, all risk for the Materials passes to the customer on completion

8.0 Surplus Materials

1. Unless otherwise stated elsewhere in this contract;
 - (a) only suitable new Materials will be used;
 - (b) demolished Materials remain the Customer's property; and
 - (c) Materials which the Company brings to the site which are surplus remain the property of the Company.

9.0 Title

1. It is the intention of the Company and agreed by the Customer that ownership of Materials shall not pass until:
 - (a) the Customer has paid all amounts owing for the particular Materials, and
 - (b) the Customer has met all other obligations due by the Customer to the Company in respect of all contracts between the Company and the Customer.
2. Receipt by the Company 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 Company's ownership or rights in respect of Materials shall continue.
3. It is further agreed that:
 - (a) where practicable the Materials shall be kept separate and identifiable until the Company shall have received payment and all other obligations of the Customer are met; and
 - (b) until such time as ownership of the Materials shall pass from the Company to the Customer the Company may give notice in writing to the Customer to return the Materials or any of them to the Company. Upon such notice the rights of the Customer to obtain ownership or any other interest in the Materials shall cease; and
 - (c) if the Customer fails to return the Materials to the Company then the Company or the Company's agent may enter upon and into land and premises owned, occupied or used by the Customer, or any premises as the invitee of the Customer, where the Materials are situated and take possession of the Materials.

10. Defects

1. The Customer shall inspect the Works on delivery and shall within thirty (30) days of delivery (time being of the essence) notify the Company of any alleged defect, shortage in quantity, damage or failure to comply with the description or quote. The Customer shall afford the Company an opportunity to inspect the Works within a reasonable time following delivery if the Customer believes the Works are defective in any way. If the Customer shall fail to comply with these provisions the Works shall be presumed to be free from any defect or damage. For defective Works, which the Company has agreed in writing that the Customer is entitled to reject, the Company's liability is limited to either (at the Company's discretion) replacing the Works or repairing the Works.

11. Electrical Safety Act 2002, Electrical Safety Regulation 2013

The Company will abide and uphold the Electrical Safety Act 2002 and the Electrical Safety Regulation 2013.

12. Warranty

1. To the extent required by statute subject to the conditions of warranty set out in clause 13.1 the Company warrants that if any defect in any workmanship of the Company becomes apparent and is reported to the Company within twelve (12) months of the date of delivery (time being of the essence) then the Company will either (at the Company's sole discretion) replace or remedy the workmanship.
2. The conditions applicable to the warranty given by clause 13.1 are:
 - (a) The warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
 - (i) Failure on the part of the Customer to properly maintain any Works; or
 - (ii) Failure on the part of the Customer to follow any instructions or guidelines provided by the Company; or
 - (iii) Any use of any Works otherwise than for any application specified on a quote or estimate; or
 - (iv) The continued use of any Works after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
 - (v) Fair wear and tear, any accident or act of God.
 - (b) The warranty shall cease and the Company shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Company's consent.
 - (c) In respect of all claims the Company shall not be liable to compensate the Customer for any delay in either replacing or remedying the workmanship or in properly assessing the Customer's claim.
3. For Material not manufactured by the Company the warranty shall be the current warranty provided by the manufacturer of the Material. The Company shall be under no liability whatsoever except for the express conditions as detailed and stipulated in the manufacturer's warranty.
4. All parts supplied by the Customer carry no warranty whatsoever.

13. The Competition and Consumer Act 2010, Fair Trading Act 1989 and Building Act 1975

1. Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of The Competition and Consumer Act 2010, Fair Trading Act 1989, Building Act 1975 except to the extent permitted by those Acts where applicable.

14. Intellectual Property

1. Where the *Company* has designed, drawn or written plans or a schedule of *Works* for the *Customer*, then the copyright in those plans, schedules, designs and drawings shall remain vested in the *Company*, and shall only be used by the *Customer* at the *Company's* discretion.
2. The *Customer* warrants that all designs or instructions to the *Company* will not cause the *Company* to infringe any patent, registered design or trademark in the execution of the *Customer's* order.

15. Default & Consequences of Default

1. Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgement.
2. If the *Customer* defaults in payment of any invoice when due, the *Customer* shall indemnify the *Company* from and against all costs and disbursements incurred by the *Company* in pursuing the debt including legal costs on a solicitor and own client basis and the *Company's* collection agency costs.
3. Without prejudice to any other remedies the *Company* may have, if at any time the *Customer* is in breach of any obligation (including those relating to payment) the *Company* may suspend or terminate the supply of *Works* to the *Customer* under the Building and Construction Industry Payments Act 2004. The *Company* will not be liable to the *Customer* for any loss or damage the *Customer* suffers because the *Company* exercised its rights under this clause.
4. If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 10.00% of the amount overdue (up to a maximum of \$200) shall be levied for administration fees which sum shall become immediately due and payable.
5. Without prejudice to the *Company's* other remedies at law the *Company* shall be entitled to cancel all or any part of any order of the *Customer* which remains unperformed and all amounts owing to the *Company* shall, whether or not due for payment, become immediately payable in the event that:
 - (a) any money payable to the *Company* becomes overdue, or in the *Company's* opinion the *Customer* will be unable to meet its payments as they fall due; or
 - (b) the *Customer* becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the *Customer* or any asset of the *Customer*.

16. Cancellation

1. The *Company* may cancel any contract to which these terms and conditions apply or cancel delivery of *Works* at any time before the *Works* are delivered by giving written notice to the *Customer*. On giving such notice the *Company* shall repay to the *Customer* any sums paid in respect of the *Price*. The *Company* shall not be liable for any loss or damage whatever arising from such cancellation.

2. In the event that the *Customer* cancels delivery of *Works* the *Customer* shall be liable for any loss incurred by the *Company* (including, but not limited to, any loss of profits) up to the time of cancellation.

17. Privacy Act 1988

1. The *Customer* agrees for the *Company* to obtain from a credit reporting agency a credit report containing personal credit information about the *Customer* in relation to credit provided by the *Company*.
2. The *Customer* agrees that the *Company* may exchange information about the *Customer* with those credit providers either named as trade referees by the *Customer* or named in a consumer credit report issued by a credit reporting agency for the following purposes:
 - (a) to assess an application by *Customer*; and/or
 - (b) to notify other credit providers of a default by the *Customer*; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the *Customer* is in default with other credit providers; and/or
 - (d) to assess the credit worthiness of *Customer*.
3. The *Customer* consents to the *Company* being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
4. The *Customer* agrees that personal credit information provided may be used and retained by the *Company* for the following purposes and for other purposes as shall be agreed between the *Customer* and *Company* or required by law from time to time:
 - (a) provision of *Works*; and/or
 - (b) marketing of *Works* by the *Company*, its agents or distributors in relation to the *Works*; and/or
 - (c) analysing, verifying and/or checking the *Customer's* credit, payment and/or status in relation to provision of *Works*; and/or
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by *Customer*; and/or
 - (e) enabling the daily operation of *Customer's* account and/or the collection of amounts outstanding in the *Customer's* account in relation to the *Works*.
5. The *Company* may give information about the *Customer* to a credit reporting agency for the following purposes:
 - (a) to obtain a consumer credit report about the *Customer*; and/or
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the *Customer*.

18. General

1. 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.
2. These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland and are subject to the jurisdiction of the courts of Queensland.
3. The *Company* shall be under no liability whatever to the *Customer* for any indirect loss and/or expense (including loss of profit) suffered by the *Customer* arising out of a breach by the *Company* of these terms and conditions.
4. In the event of any breach of this contract by the *Company* the remedies of the *Customer* shall be limited to damages. Under no circumstances shall the liability of the *Company* exceed the *Price* of the *Works*.
5. 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 *Company*.
6. The *Company* may license or sub-contract all or any part of its rights and obligations without the *Customer's* consent.
7. The *Company* reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the *Company* notifies the *Customer* of such change.
8. Neither party shall be liable for any default due to any act of God, war, terrorism, fire, flood, drought, storm or other event beyond the reasonable control of either party.

19. Rates

1. Day rate 6am – 6pm – Standard call out and hourly rates apply - \$90 + GST per worker.
2. Out of hours 6pm – 6am - Premium call out and hourly rates apply
For the 1st hour \$195 +gst.
Additional hours \$125 +gst

In case we need materials and the supplier is not open, we will do a temporary job to restore power and make it safe.
A further work will be carried out when materials are available.