

## **TERMS AND CONDITIONS**

1. These Terms and Conditions, accompanying purchase order ("Purchase Order") and any invoices issued by CES to You (collectively the "Agreement") describe the terms and conditions that govern the supply of the products and/or services ("Product") specified in this Agreement for a person or any other entity that accepts these Terms. This Agreement is between **Caravan Electrical Solutions Pty Ltd t/a "Caravan Electrical Solutions"** ("CES", "We", "Us") and the other party of this Agreement ("You", "Purchaser").
2. By offering to buy Product from Us through a Purchase Order and/or by accepting CES's price or estimated rate ("Price"), which has been listed on a price list ("Price List") you agree to be bound by this Agreement.
3. You agree that the scope and terms of this Agreement, including the Prices, may change as a result of updated instructions from You.

### **Interpretation**

4. In this Agreement, the following rules of interpretation apply:
  - (a) headings are for reference purposes only and in no way define, limit or describe the scope or extent of any provision in this Agreement;
  - (b) this Agreement must not be construed adversely against CES solely because it prepared the Agreement;
  - (c) the singular includes the plural and vice-versa;
  - (d) a reference to "You" includes a reference to anyone acting on your behalf or with your express, ostensible or implied authority.
  - (e) a reference to a "person" includes an individual, a firm, a corporation, a body corporate, a partnership, an unincorporated body, an association, a government body or any other entity; and
  - (f) the meaning of general words is not limited by specific examples introduced by "including", "for example", "in particular" or similar expressions.

### **Products**

5. The Purchaser agrees to engage CES, on a non-exclusive basis, to supply the Product in accordance with the terms of this Agreement.
6. CES may, in its sole discretion, elect not to supply the Product unless and until CES has received the required deposit or any other payments from the Purchaser, and until the Purchaser satisfies the required conditions precedent, as noted below.

### **Prices and Fees**

7. All Purchase Orders will be processed by the Sales Team. Pricing, delivery, dispatch and special conditions will be set on a 'customer by customer' basis.
8. Each available Product has a Price, which is provided by CES on request via the Sales Team.
9. CES reserves the right to alter the Price at any time, and through placing a Purchase Order, you agree to the fees in the Price, unless agreed otherwise by the parties in writing.
10. CES has the ultimate discretion on whether Your Purchase Order is accepted. If Your Purchase Order is accepted, then CES will raise an invoice, containing the agreed Price as well as any other related fees incurred and the invoice will specify if a deposit is to be paid in advance ("Deposit").
11. As specified in the Quotation, the Price is exclusive of GST. You must pay, in addition to the Price, any GST payable in connection to the Price (and any other ancillary fees and charges)

### **Payments and Reimbursements**

12. The Purchaser is liable for payment of all Prices and charges relating to the supply of the Products (whether relating to the arrangement, any cancellation or otherwise of the Products).
13. The Purchaser agrees to the following payment terms of CES:
  - (a) any additional fees not already included in the original Agreement will be updated in the Agreement and must be approved by CES in advance of the supply of the Products by CES;
  - (b) any other payment arrangements must be negotiated with CES and must be evidenced in writing between the parties as a Special Condition, in Item 4 of the Schedule;
  - (c) any payments under the Agreement must be paid by cash, credit card or EFTPOS, as per the details on the invoice; and
  - (d) upon the receipt of each invoice issued by CES, the Purchaser must attend to payment of the full invoiced amount in advance, or if applicable, in accordance with any approved credit application.
15. CES will invoice for POSTAGE/FREIGHT as set out in the quotation and will be invoiced with the products and payable in advance, or if applicable, in accordance with any approved credit application.

### **Credit Application**

16. If the Purchaser is eligible for credit through a customer account with CES ("Credit"), then the Purchaser hereby declares that the information provided on the Credit Application Form is true and correct.
17. The Purchaser acknowledges that CES is relying on the accuracy of the information provided in the Credit Application Form and agrees to indemnify CES for any/all loss arising from misrepresentations or untrue statements by the Purchaser.
18. All terms of the Credit provided will be agreed separately between the parties.
19. Any material breaches of the terms of Credit could result in immediate termination of this Agreement and any other arrangement, at the absolute discretion of CES.

### **Cancellation and Refund Policy**

20. The Purchase Order may only be varied or cancelled by the Purchaser through a written notice to CES.
21. If the Purchaser requests a variation of a Purchase Order only, CES must firstly approve of any variations to the Purchase Order and will vary the Price accordingly.
22. CES reserves the right to cancel or postpone any confirmed Purchase Order if:
  - (a) any required payments (such as the Deposit) are not paid when due and payable;
  - (b) there are issues with product availability and supply which are beyond CES's control; and
  - (c) the Purchaser does not observe any time or notice requirements, as set out in this Agreement.
23. If a Purchase Order is cancelled by CES and there has been no breach by the Purchaser, then the Purchaser is entitled to a refund of all amounts paid up until the cancellation, including the Deposit.

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24. You may return a Product for a refund or exchange within 14 days of pick up or delivery, provided there is proof of purchase, except where the Product:
- is discontinued;
  - is not in resalable condition;
  - is a Product that had to be customised specifically for Your use; or
  - is not in its original packaging.
25. Notwithstanding clause 23 and 24 above, it is at the ultimate discretion of CES whether the Purchaser is entitled to a refund.

### **Performance and Delivery**

26. Any date provided by CES for the supply of Products is an estimate only. If CES cannot supply Products by an estimated date, we will endeavour to supply the Products within a reasonable time.
27. We will not be liable for any loss or damage suffered by You or any third party for failure to supply Products by an estimated date.

### **Title and Risk**

28. Legal and equitable ownership of, and title to, the Products (including as part of services rendered), remains with Us until You have paid Us for the Products in full. Until such payment is made, You acknowledge that the Products are held by You as bailee for Us and that a fiduciary relationship exists between You and Us in relation to the products.
- If You sell, transfer or otherwise dispose of the Products ("Re-supply") to any person before ownership of, and title to, the products passes to You, whether or not with our consent, You hold the proceeds of the Re-supply on trust for Us and will pay the proceeds of the Re-Supply to Us upon receipt of any proceeds from a third party.
  - You must inspect the Products (including as part of services rendered) and duly notify Us of any discrepancies thereof at the time of collection or delivery.
29. The Product will be deemed to be accepted in the quantity specified in the Purchase Order and of an acceptable standard and such acceptance will operate as a bar to any claims against Us under this Agreement or otherwise, if notification is not provided by You prior to removing the products from our premises, or delivered (as applicable).
30. Risk in the Products (including as part of services rendered) passes to You immediately upon removal of the products by You or an authorised third party from our premises, or upon delivery.

### **Force Majeure**

31. A party is not liable for any failure to observe its obligations under this Agreement where such failure is wholly or substantially due to a force majeure event, which includes any cause beyond the control of that party, including strike, industrial action, war, sabotage, terrorist activity, pandemic, national emergency, blockade or governmental action (including COVID-19 restrictions), inaction or request, and act of God, provided that the party seeking to rely on the benefit of this clause:
- as soon as reasonably practicable, notifies the other party of the extent to which it is unable to perform its obligations; and
  - uses its best endeavours to mitigate the adverse effects of the force majeure event and perform its obligations under this Agreement as quickly as possible.

32. Where a force majeure event prevents a party from performing a material obligation under this Agreement for a period in excess of 30 days, the affected party may by notice in writing terminate this Agreement, which will be effective immediately, unless otherwise stated in the notice.

### **Warranties**

33. You represent and warrant that:
- You have capacity to enter into this Agreement and perform Your obligations under this Agreement;
  - You have and will maintain all licences, authorisations, consents, approvals and permits required by applicable laws in order to perform Your obligations under this Agreement;
  - there are no matters which will or may adversely affect Your ability to perform Your obligations under this Agreement; and
  - You will at all times comply with any applicable laws.
34. If You fail to abide by the warranties set out herein, CES may immediately without notice or liability to You, suspend or terminate any or all supply of Products.
35. For up to a period of 2 years from the date of purchase, CES will provide the Purchaser with a warranty on all 'Areal' branded items as well as all manufactured or assembled items. This warranty applies if any product does not function as originally described or intended ("Defective Product"), provided that:
- the Defective Product has and is installed correctly;
  - the Defective Product has not been altered or modified by the Purchaser or anyone after date of purchase; and
  - the Defective Product has been used correctly and according to its intended purpose.
36. All 'other products' that CES supplies will be serviced by the third-party warranty.
37. If clause 36 above applies, it will be at the absolute discretion of CES whether the Purchaser is entitled to a replacement or repair of the Defective Product

### **Warranty Process**

38. CES must be notified within 14 days of the fault occurring.
39. Notification is to be via email/phone to CES Support Team at 03 9303 7033 or [support@cespro.com.au](mailto:support@cespro.com.au)
40. If works are to be completed, CES will issue a Work Authority Number (WAN) and will determine the appropriate course of action.
41. CES or an authorised repairer will undertake warranty repairs and replacement.
42. Associated costs will be reviewed case by case.
43. Warranty claims without a WAN will not be accepted.
44. Any goods replaced without written authorisation from CES will not be covered.
45. Any unauthorised repairs, or modifications to products purchased will not be covered under warranty.
46. If CES acts on a warranty issue that requires the replacement of components/parts and it is proven that CES does not cause the electrical fault, the responsible party/s of the fault/s will take ownership of said warranty, and this third party will be invoiced for the cost of product, time and travel associated with the claim.
47. All returned items MUST be in the same condition as received. The sender of these item/s will be held financially responsible if the item/s are damaged due to poor packaging through postage or freight.
48. OEM Accounts with non-warrantable goods, such as those damaged accidentally or incorrectly installed, can apply for a rebate of 20% off replacement goods. Original products must be returned within 7 days to qualify.

### **Confidentiality**

49. If applicable, the parties must:
- (a) keep the terms of this Agreement and any prior discussions between the parties about pricing and terms confidential ("Confidential Information");
  - (b) not use or exploit any Confidential Information in any way except in the proper performance of this Agreement;
  - (c) not disclose or make available any Confidential Information in whole or in part to any third party;
  - (d) not copy, reduce to writing or otherwise record any Confidential Information except in the proper performance of this Agreement.
50. The Purchaser shall be responsible for, and liable to CES in respect of, the actions or omissions of any and all of its representatives and other related third parties in relation to the Confidential Information as if they were the actions or omissions of the Purchaser.
51. The Purchaser may disclose Confidential Information to those of its representatives who have an actual need to know the Confidential Information but only in the proper provision of the Services and performance of its duties under this Agreement and provided that it informs such representatives of the confidential nature of the Confidential Information before such disclosure.

### **Entire Agreement**

52. This Agreement and anything expressly or impliedly incorporated by reference herein, is the entirety of the agreement between the Purchaser and CES in respect of its subject matter and forms the basis of all understandings and agreements between the parties. No other term, condition, agreement, warranty, representation or understanding whether express or implied, extending to or relating to or binding upon the parties is made or given.

### **Notice**

53. The Purchaser may provide any notification for the purposes of this Agreement by email to [accounts@cespro.com.au](mailto:accounts@cespro.com.au).
54. CES will provide any notification to the Purchaser for the purposes of this Agreement, to the address(es) provided in this Agreement, any related credit application or Purchase Order by You.

### **Costs**

55. Each party must bear its own legal, accounting and other costs associated with this Agreement.

### **Assignment**

56. You may not assign, transfer or sub-contract any of Your rights or obligations under this Agreement without the prior written consent of CES.
57. CES may assign, transfer or sub-contract any of its rights or obligations under this Agreement at any time without notice to You.

### **No Waiver**

58. Waiver of any power or right under this Agreement must be in writing signed by the party entitled to the benefit of that power or right and is effective only to the extent set out in that written waiver. Any failure by CES to act with respect to a breach by the Purchaser or others does not waive CES's right to act with respect to that breach or any subsequent or similar breaches.

### **Severability**

59. The provisions of this Agreement are severable and, if any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future law, such provision may be removed and the remaining provisions shall be enforced.

### **Variation**

60. The parties may only make variations or amendments to this Agreement by written agreement with the other party.

### **Governing Law**

61. This Agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by, and shall be construed in accordance with, the laws of Victoria, Australia.
62. You hereby consent and submit to the exclusive jurisdiction of the Courts of Victoria, Australia.

### **Termination**

63. The Agreement will be terminated on the occurrence of the following:
- (a) fulfilment of the Purchase Order through the completion of supplying the requested Products and payment by the Purchaser of all invoices issued by CES;
  - (b) if the order is cancelled by either party pursuant to clause 22 and 23 of this Agreement; or
  - (c) in the event of a breach of a material term of the Agreement and there is a failure to rectify the default, where capable of rectification, within 14 days of service of the written notice of such default, to the defaulting party.
64. The Purchaser shall pay all fees, cost or expenses outstanding or due immediately upon termination and shall remain liable for all fees, cost or expense incurred and unbilled up until the time of termination which will be paid within 7 days of receipt of invoice.
65. Where an Agreement has been terminated according to clause 34:
- (a) if the Products have already been supplied, then CES will be entitled to payment of the entire Price invoiced and due;
  - (b) if the Products have not yet been supplied, but a Deposit has been paid, then at the discretion of CES, the Deposit may be refunded

