

## ***ELECTRICAL EQUIPMENT COMPANY***

### **GENERAL TERMS AND CONDITIONS OF SALE**

1. **GENERAL.** These general terms and conditions of sale, along with other written specifications, quotations or supplemental terms that may have been provided by Seller, will control the sale of all goods and services (the "Products") by Seller to Buyer. These terms and conditions apply whether the sale occurs due to verbal or paper-based orders or any form of electronic commerce and represent the entire agreement between Seller and Buyer for that purpose.
2. **ACCEPTANCE.** If not otherwise agreed to, Buyer's receipt or acceptance of delivery of any of the sold Products alone will constitute its acceptance of these terms and conditions. Seller objects to any term or condition that may be proposed by Buyer or that may appear on or is referenced in Buyer's purchase order or requisition or payment remittance that is in addition to or otherwise not consistent with these terms and conditions. No addition or modification to these terms and conditions will be binding on Seller unless agreed in writing. No terms and conditions other than those stated herein, and no agreement or understanding, in any way purporting to modify these terms or conditions, shall be binding on Seller without Seller's written consent. Any additional or different terms in the buyer's form are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given. Waiver by Seller of any terms of this Agreement on one or more occasions shall not be deemed a waiver of Seller's right to subsequently enforce the same or other terms of this Agreement.
3. **CREDIT APPLICATION.** The credit application is made for the purpose of inducing Seller (Electrical Equipment Company) to extend credit to Applicant/Buyer for the purchase or repair of electrical equipment and supplies, ordered orally, electronically or in writing. The applicant authorizes the Seller to seek and obtain information from trade references, other merchants, credit reporting services, public records and other reasonable sources to determine if credit for business purposes will be extended. The applicant further authorizes the Seller to reinvestigate the credit status as needed. If Applicant is a proprietorship or personal guarantor, personal credit information will be obtained for evaluating business credit. If credit is granted, this permission shall be ongoing and continuing for so long as the credit account remains open and unpaid and information obtained may be used for collection purposes. If an account is opened, credit history may also be supplied to credit reporting services. Upon written request of applicant and after payment of all outstanding balances, the permissions granted pursuant to this Paragraph may be terminated. Applicant represents that this Application and Consent is executed for business purposes only and acknowledges that Seller is not a provider of consumer credit. Applicant waives and releases any and all claims against Seller arising from the obtaining or releasing of credit information done in good faith by Seller. Credit limit may be increased or decreased solely in the discretion of the seller with or without notice to Applicant.
4. **ACCEPTANCE OF ORDERS.** Acceptance of any order is subject to credit approval and acceptance of order by Seller and, when applicable Seller's suppliers. If Buyer's Credit becomes unsatisfactory to Seller, Seller reserves the right to terminate sales upon notice to Buyer and without liability to Seller. Unless written notice to the contrary is received, Seller may accept orders and obtain delivery receipts from any apparently authorized representative of Applicant. If no representative of Applicant is readily available at the delivery address, Seller's records of delivery shall be presumed correct. Contract or job designations provided by Applicant may be relied upon by Seller in allocating sales among multiple contracts or jobs, notwithstanding the combining of purchases to obtain quantity rates or delivery to an address other than the contract or job location. All claims for errors or unsatisfactory stock must be reported upon delivery and confirmed in writing within five (5) days; otherwise any claim for adjustment shall be deemed waived. Unless delivered by our truck, all claims for transit damage must be made directly with the carrier.
5. **PAYMENT TERMS.** Payment in advance of shipment is required unless open account credit terms have been established and maintained consistent with Seller's credit policies. Late payments will be subject to a service charge of 1 ½% per month on the unpaid balance. In conformity with NCGS 24-5, the aforementioned rate also applies after judgment. If this account is placed with an attorney for collection, Applicant agrees to pay costs of collection, including reasonable attorney's fees which absent evidence to the contrary shall be deemed thirty-three percent (33%), or the amount allowed by law, of the balance due at the time the account is assigned to the attorney, whether or not suit is filed. If judgment is entered, interest shall continue thereafter at the contract rate until paid in full. If this account is placed with a collection agency, applicant agrees to pay all costs of collection. All NSF checks returned to seller will be subject to a \$25 NSF fee. Payment by credit card, when permitted by Seller, is subject to credit card validation and authorization both at time of order placement and immediately prior to shipment. Seller reserves the right to suspend its performance in the event payment is not made when due. No payment by offset is permitted without Seller's consent.
6. **CHANGE OF INFORMATION.** Applicant agrees to notify Seller in writing via certified mail, return receipt requested, within seven (7) days upon the change of any information given to Seller in the Credit Application, including but not limited to changes in name, ownership, corporate status or structure, or other material changes. Any supplemental information provided in support of this Application, whether provided simultaneously with the Application or later, such information shall be deemed incorporated herein and as representations of Applicant to Seller for the purposes of inducing Seller to extend credit to Applicant.

7. **DELIVERY/DELAY IN DELIVERY/FORCE MAJURE.** Delivery terms are FOB Seller's facility (or Seller's supplier's facility in the event of a direct factory shipment) or as otherwise agreed to as stated on Seller's order acknowledgment. In all cases, title transfers to Buyer upon the earlier of Seller's delivery to Buyer or receipt by the first carrier for transport to Buyer, except that title to all intellectual property rights associated with the Products remains with Seller's suppliers or Product licensors. Where applicable, prepaid shipping will be billed to Buyer as a separate invoice item. Claims for shortages, errors, or unsatisfactory stock must be made in writing not more than five (5) days after receipt of shipment. Seller's acknowledged shipping dates are approximate only, and Seller disclaims all liability for late delivery. Factory shipment or delivery dates are the best estimates of Seller's suppliers, and in no case shall Seller be liable for any consequential or special damages arising from any delay in shipment or delivery. Seller and its suppliers will not be liable for delays in performance occasioned by acts of God, failure of its suppliers to ship or deliver on time or other circumstances whether or not caused by circumstances under Seller's control, including without limitation, omissions by Buyer or other parties not under Seller's or its suppliers' direction and control, acts of civil or military authority, fires, strikes, floods, epidemics, quarantine restrictions, war, riots, acts of terrorism, delays in transportation, or transportation embargoes. In the event of delay, Seller's performance date(s) (or that of Seller's supplier, as the case may be) will be extended for a length of time as may be reasonably necessary to compensate for the delay.
8. **PRODUCT SELECTION/WARRANTY WAIVER.** *Any assistance offered Buyer in product recommendations and selection is advisory only. Buyer must evaluate all specification and application considerations to determine suitability for intended use. Except to the extent of a guaranty or warranty provided by the manufacturer, or as may be specifically provided in writing, **all products sold by Seller are without any warranties, express or implied, including warranties of merchantability or fitness for a particular purpose. State or Federal laws may limit the application of this paragraph including the disclaimer of warranties.***
9. **PRICES.** Prices quoted are valid for 30 days unless otherwise specified. Products containing commodity materials (copper, steel, aluminum, resin, etc.) are subject to increase if the commodity price has changed between the quotation date and the order date. Prices and other information shown in any of Seller's catalogs, brochures and websites (including those of its suppliers) are subject to change without notice and to confirmation by specific quotation. Those publications are not offers to sell and are maintained only as a source of general information. Time and material services will be provided in accordance with Seller's (or the related service provider's) published service rates (including applicable overtime and travel expenses) and supplemental terms and conditions in effect as of the date the services are provided, unless otherwise confirmed by Seller's written quotation or order acknowledgment.
10. **TAXES.** Seller's prices do not include sales, use, excise, customs, value-added or similar taxes. Buyer will pay or reimburse Seller for all such taxes as may be applicable or provide Seller with acceptable tax exemption certificate. Buyer indemnifies Seller against any costs or losses, including attorney fees, arising from any improper designation of tax status.
11. **LICENSED SOFTWARE AND FIRMWARE.** *Software or firmware Products may be subject to Buyer's acceptance of separate license agreements, with no rights to use, sublicense, disclose, disassemble, decompile, reverse engineer, or otherwise modify the software or firmware except as may be expressly permitted by those license agreements.*
12. **CHANGES AND SUBSTITUTIONS.** Buyer requested changes, including those affecting the identity, scope and delivery of the Products to be purchased, must be documented in writing and are subject to Seller's (or its supplier's) prior approval and adjustments in price, scheduling and other affected terms and conditions. In any event, Seller and its suppliers reserve the right to reject any change that Seller or its suppliers deem unsafe, technically inadvisable or inconsistent with established engineering or quality guidelines and standards, or incompatible with Seller's suppliers' design or manufacturing capabilities. Seller further reserves the right to substitute using the latest superseding revision or series or equivalent Product having comparable form, fit and function.
13. **WARRANTY AND INTELLECTUAL PROPERTY DISCLAIMER.** *Buyer acknowledges that Seller is an independent enterprise, purchasing and reselling the Products for Seller's own account, and not as an agent of any product manufacturer or service provider. Seller is not authorized to commit or bind any product manufacturer or third-party service provider in any way, nor is any product manufacturer or service provider authorized to commit or bind Seller in any way. Seller is not a general contractor regarding the sale of third-party branded services, acting only in the capacity of a permitted reseller of those services. SELLER MAKES NO REPRESENTATIONS, PROVIDES NO INDEMNITIES (INTELLECTUAL PROPERTY OR OTHERWISE), AND DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, RELATIVE TO ANY GOODS OR SERVICES SOLD BY IT. THE ONLY WARRANTY AVAILABLE TO BUYER WILL BE THAT EXTENDED DIRECTLY BY THE ORIGINAL PRODUCT MANUFACTURER OR SERVICE PROVIDER (copies of any such warranties are available upon request). Seller assumes no post-sale technical support or warranty repair obligations, however, at Seller's discretion, it may assist Buyer in processing warranty claims. Seller assumes no responsibility for any information, specification, claim, warranty or representation made or provided by the original manufacturer or service provider. That information, to extent provided by or secured from Seller, is solely for Buyer's convenience, and Buyer must make its own determination as to the accuracy and completeness of that information.*
14. **DISCLAIMER AND LIMITATION OF LIABILITY.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, SELLER WILL NOT BE LIABLE FOR ANY BUSINESS INTERRUPTION OR LOSS OF PROFIT, REVENUE, MATERIALS, ANTICIPATED SAVINGS, DATA, CONTRACT, GOODWILL OR THE LIKE (WHETHER DIRECT OR INDIRECT IN NATURE) OR FOR ANY OTHER FORM OF INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES. SELLER'S MAXIMUM CUMULATIVE LIABILITY RELATIVE TO ALL OTHER CLAIMS AND LIABILITIES FOR WHICH IT IS FOUND RESPONSIBLE, WHETHER OR NOT INSURED, INCLUDING OBLIGATIONS UNDER ANY INDEMNITY, WILL NOT EXCEED SELLER'S SELLING PRICE TO BUYER FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM OR LIABILITY. SELLER DISCLAIMS ALL LIABILITY FOR GRATUITOUS INFORMATION OR

ASSISTANCE PROVIDED BY, BUT NOT CONTRACTUALLY REQUIRED OF SELLER. ANY ACTION AGAINST SELLER MUST BE BROUGHT WITHIN EIGHTEEN (18) MONTHS AFTER THE CAUSE OF ACTION ACCRUES. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS OF ANY OTHER CONTRARY PROVISION BETWEEN SELLER AND BUYER AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHERWISE, AND FURTHER WILL EXTEND TO THE BENEFIT OF SELLER'S EMPLOYEES, REPRESENTATIVES AND SUPPLIERS AS THIRD-PARTY BENEFICIARIES. EACH PROVISION THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY OR CONDITION, OR EXCLUSION OF DAMAGES IS SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND IS TO BE ENFORCED AS SUCH.

15. **RETURNS.** *All returns will be pursuant to Seller's instructions and at Seller's discretion. Non-warranty returns of unused and resalable Products for credit will be subject to Seller's return policies in effect at the time, including applicable restocking, handling, and re-packaging charges and other conditions of return. Items designated as Non-Returnable, Special Orders, Non-Stock Items, Cut Wire, Custom Products or Products specifically manufactured or sourced to Buyer's specification are not returnable. In addition to any other requirements of the original manufacturer, all returns must be in new condition complete with all parts and in original packaging. Packaging must be free from writing, labels, and must contain all prior factory identification. Shrink wrapped product and factory seals must not be broken. If applicable, material must not have been installed or electrically powered. Returns are allowable only when Seller has issued Buyer a Return Material Authorization (RMA) in writing. Seller does not accept responsibility for material returned without an RMA and receipt from Seller. Issuance of an RMA is not a guarantee of credit for returned materials. If material is returned to Seller's supplier, credit for return will not be applied until supplier grants credit to Seller. Products returned under the manufacturer's warranty must be properly packed and shipped to locations specified by Seller or its supplier. Shipping containers must be clearly marked per instruction and shipped freight prepaid by Buyer.*
16. **ORDER CANCELLATION.** Cancellation by Buyer prior to shipment is permitted only by written notice from Buyer and subsequent written acceptance by Seller and upon payment to Seller of reasonable cancellation and restocking charges, including reimbursement for incurred direct costs. Cancellation charges associated with orders for custom Products, Products specifically manufactured or sourced to Buyer's specification, or orders requiring a commitment to obtain raw materials may equal the actual selling price of the affected Products. Seller has the right to cancel any order for cause at any time by written notice, and Seller will be entitled to cancellation and restocking charges as mentioned above. No termination by Buyer for cause will be effective unless Seller has failed to correct the alleged cause within forty-five (45) days after receipt of Buyer's written notice specifying the cause.
17. **EXPORT CONTROL.** Products and associated materials sold by Seller may be subject to various export laws and regulations. It is the responsibility of any exporter to comply with those laws and regulations. In the event that U.S. or local law requires authorization for the export or re-export of any Product or associated technology, no delivery can be made until that authorization is obtained, regardless of any accepted order or promised delivery date. In the event that authorization is denied, Seller (and Seller's supplier, if applicable) will be relieved of any further obligation to the sale or delivery of the Products subject to the denial without liability of any kind to Buyer or any other party. Seller will not comply with boycott related requests except to the extent permitted by U.S. law and then only at Seller's discretion.
18. **TERMINATION BY CUSTOMER.** This agreement may be terminated by the customer upon written notice delivered via certified mail, return receipt requested to Electrical Equipment Company Credit Department and upon payment in full of all outstanding balances due and owing on the account, and any such revocation shall become effective sixty (60) days after receipt of said written revocation.
19. **JURISDICTION/VENUE.** *Any dispute arising under this Agreement shall be governed by the laws of, and shall be resolved in the Courts of, such Courts with jurisdiction over the county in which the pertinent Electrical Equipment Company Branch is situated, in the court in which the project for which goods are to be used is located, or in any county where Electrical Equipment Company has a Branch in the State where the transaction arose. In the event of conflict between this agreement and Applicant's purchase order or other documents prepared by Applicant, or between this agreement and any oral representations or agreements between the parties, this Agreement shall control.*

(Revised 3/5/15)