

FOREMOST ELECTRICAL PTY LTD TERMS OF TRADE

1. These general agreed terms apply to all transactions between us. Other documents relating to our transactions will include any specific terms and conditions.
2. If you are a company we will require a guarantor of your obligations.
3. Price means our fixed and published price or the amount agreed between us or the amount established by a course of dealing between us. The price unless otherwise agreed does not include delivery costs.
4. The observation of agreed time frames is of primary importance.
5. Our payment terms are stipulated on the quotation attached hereto these terms of trade. Should no payment terms be specified in our quotation, the payment terms set out in our Tax Invoices will apply.
6. If you must make a payment or do any other thing on or by a day that is not a business day you must make the payment or do the thing on or by the next business day.
7. Unless otherwise agreed normally payment is a condition precedent to delivery of the goods.
8. By accepting payment of any sum after its due date we do not waive our right either to require payments as they fall due or to suspend or end our arrangements.
9. You and any guarantor will be in default if you do not pay us when monies are due for payment or fail to comply with any other obligation under our business arrangements.
10. If you are in default under our agreement we may send you a default notice. The notice will tell you what the default is and what you are required to do to correct the default. You will have 14 business days to rectify the default.
11. If you do not comply with the default notice you become immediately liable to pay us all monies owing with interest on that amount from the due date until payment at the rate of 15% per annum. In these circumstances, as title to the goods do not pass to you until we have been paid, we may repossess and sell the goods and apply the proceeds of the sale towards repayment of the monies owed under the agreement.
12. You also agree to pay on default all costs and expenses incurred in exercising our rights of recovery from you and the guarantor if any and indemnify us against any losses resulting from the default.
13. Title in the goods does not pass to you until we have received payment in full.
14. To protect our security interest in the goods until payment we may choose to register the agreement between us under the Personal Properties Securities Act 2009. You agree to do all things necessary to facilitate such registration.
15. On default in payment you irrevocably permit us or any person authorised by us in writing upon reasonable notice to enter your premises or the premises where the goods are reasonably believed by us to be held on your behalf. You also agree to indemnify and hold us harmless for all reasonable costs and expenses of recovery of the goods and losses if any on their resale.
16. You agree to sign documents or do all things necessary to perfect our rights under the agreement and appoint us as your attorney to sign any document or do anything that may reasonably be required to enforce our rights on default.
17. Unless otherwise agreed risk passes to you at the time we ship FOB our ordinary place of business to your specified location. You assume all responsibility for filing claims for damage against the carriers and other agents. You must insure the goods against loss or damage until payment has been made to us.
18. If any of the goods are damaged or destroyed after shipment you must direct the insurer to make payment to us of all insurance monies payable in respect of the insurance claim made on the damaged or destroyed goods.
19. Insurance monies received by us will be applied firstly against the outstanding price of the goods that are damaged or destroyed, secondly against the outstanding price of all goods supplied under the agreement, thirdly against the outstanding balance payable to us by you on any account under our agreements and fourthly in payment of any balance to you.
20. You represent and warrant to us that all information and representations that you, or any person acting on your behalf has given in connection with our transactions are true and correct and that you have not failed to disclose to us anything relevant to our decision to have dealings with you and that no court proceedings or dispute is current that may have an adverse effect on performing your obligations under this agreement.
21. Acceptance of the goods must take place immediately following delivery and is established if you signify by words or conduct that the goods are conforming or that you retain them in spite of their nonconformity or deal with them in a way inconsistent with our ownership. You may reject them on good grounds after a reasonable opportunity to inspect them. The rejection must immediately be communicated to us with full particulars of the nonconformity. On acceptance if payment arrangements are in place then they must be honoured. If payment has been made then it will either be refunded by us or credited towards payment of replacement goods for the nonconforming goods.
22. Your right, as against us to retain or dispose of the goods or services delivered or supplied is conditional upon you honouring our payment arrangements.
23. When a dispute arises between us you agree to comply with our dispute resolution process. To this end a party with a complaint against the other is first required to notify the other of the dispute by giving written notice specifying the nature of the dispute, the outcome required and the action believed necessary under the circumstances that will assist both in settling the dispute.
24. Each party will then in good faith attempt to resolve the dispute by negotiation, and if the dispute in some aspect involves payment of monies, the party withholding payment is required immediately upon receipt of the notice to deposit the disputed amount into an escrow account with instructions pertaining to the release of funds. Undisputed amounts must be paid forthwith.
25. Notices must be in writing and be given personally by Express or Registered Post with delivery confirmation or by facsimile transmission or email with receipt confirmation.
26. All principals of a company trust or partnership will be required to sign a personal guarantee.
27. All guarantors shall be jointly and severally liable for performance of all of the terms, covenants, and conditions of our agreements.
28. You and the guarantors jointly and severally authorise us to exchange information about the creditworthiness of either yourself or the guarantors with any credit reporting agency at any time during the term of the agreement.
29. Any Purchase Orders or Statements of Work sent to us after receipt of our Quotation, you have agreed to be bound by these Terms of Trade.