

Appendix 1 Norcroft Electrical Limited - Terms and Conditions for Goods and Services

1. Application of Conditions

- 1.1 The Supplier shall supply and the Customer shall purchase the Goods and/or Services in accordance with an accepted Customer Offer, which is subject to these Conditions.
- 1.2 The Contract shall be, to the exclusion of any other terms and conditions, subject to these Conditions and the terms set out in a Customer Offer which has been accepted by the Supplier.
- 1.3 In the event of any inconsistency or contradiction between the terms of an accepted Customer Offer and the terms of these Conditions, the terms contained within the accepted Customer Offer shall take precedence.

2. Definition and interpretation

- 2.1 In these Conditions:

"Business Day" means any day other than a Saturday, a Sunday or a bank holiday in England.

"Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Supplier.

"Consumer Cancellation Form" means the form attached at Schedule 1 which the Customer (if a consumer) may use to cancel the Contract during the Cooling Off Period in accordance with clause 3.6 below.

"Contract" means the contract for the purchase and sale of the Goods and/or supply of the Services under these Conditions.

"Customer" means the person or entity who accepts a quotation or offer of the Supplier for the sale of the Goods and supply of the Services, or whose order for the Goods and/or Services is accepted by the Supplier. The Customer may be a consumer or a trader.

"Customer Offer" means the document setting out the Customer's offer to purchase the Goods and/or Services from the Supplier in accordance with clause 3.2 below.

"Delivery Date" means the approximate date on which the Goods are to be delivered or installed, or the Services are to be provided, as stipulated in a Customer Offer which has been accepted by the Supplier.

"Goods" means the goods (including any instalment of the goods or any parts for them) which the Supplier is to supply in accordance with these Conditions.

"Month" means a calendar month.

"Proposal" means the document setting out the commercial terms of the Supplier's informal proposal for supplying the Goods and/or Services from the Supplier.

"Services" mean the Services to be provided to the Customer as set out in the quotation.

"Supplier" means Norcroft Electrical Limited, a company registered in England under company registration number 05455330.

"Writing" includes any communications effected by telex, facsimile transmission, electronic mail or any comparable means.

2.2 Any reference in these Conditions to a statute or a provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

2.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

3. **Basis of Sale and Service**

3.1 A Proposal for the Goods and/or Services prepared by the Supplier shall not constitute an offer and shall only be valid for a period of 20 Business Days from its date of issue.

3.2 If the Customer confirms in writing that it is willing to purchase the Goods and/or Services in accordance with the terms of the Proposal, it constitutes an offer by the Customer to purchase the Goods and/or Services in accordance with the Proposal and these Conditions (a "**Customer Offer**"). The Customer is responsible for ensuring that the terms of the Proposal, Customer Offer and any applicable specification are complete and accurate.

3.3 A Customer Offer shall only be deemed to be accepted when the Supplier issues a written acceptance of the Customer Offer, at which point the Contract shall come into existence

3.4 The Supplier's employees or agents are not authorised to make any representations concerning the Goods and/or Services unless confirmed by the Supplier in writing. In entering into the Contract, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations that are not so confirmed.

3.5 Any typographical, clerical or other accidental errors or omissions in any sales literature, Proposal, Customer Offer, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

3.6 Where the Customer is dealing as a consumer, and unless the Goods are made to a personalised specification, the Customer is entitled to rely on a cooling off period ("**Cooling Off Period**") which runs for 14 days after delivery of the Goods. During the Cooling Off Period the Customer may cancel the Contract without penalty by contacting the Supplier on 01226 763127, or in writing to the address at the end of these Conditions, and clearly stating that the Customer wishes to cancel the Contract. The Customer may use the Consumer Cancellation Form attached to these Conditions at Schedule 1 to cancel the Contract.

3.7 If the Customer cancels the Contract within the Cooling Off Period in accordance with clause 3.6 above, the Supplier shall refund the price of the Goods to the Customer, less any diminished value of the Goods caused by their use and less any costs of returning the Goods, including for the avoidance of doubt any costs for uninstalling the Goods.

3.8 Notwithstanding clauses 3.6 and 3.7 above, the Customer expressly authorises the Supplier to commence the Services and accepts that they will be liable for the costs of such Services.

4. **The Goods**

4.1 Subject to any different Warranty Period set out in an accepted Customer Offer, the Supplier warrants that on delivery, and for a period of 2 years from the date of delivery for Goods which are renewable and low carbon generators, or for a period of 1 year from the date of delivery for any other types of Goods, ("**Warranty Period**") the Goods shall:

4.1.1 conform in all material respects with their description and any applicable specification;

4.1.2 be free from material defects in design, material and workmanship;

- 4.1.3 be free from any faults that arise as a result of the provision of the Services, the installation process and the workmanship applied;
- 4.1.4 be of satisfactory quality; and
- 4.1.5 be fit for any purpose held out by the Supplier.
- 4.2 Subject to clause 4.3, if within 30 days of delivery:
- 4.2.1 the Customer gives notice in writing to the Supplier that some or all of the Goods do not comply with the warranty set out in clause 4.1;
- 4.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and
- 4.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost,
- the Supplier shall, at the Customer's option, repair or replace the defective Goods (if it is proportionate to do so), or refund the price of the defective Goods in full.
- 4.3 The Supplier shall not be liable for Goods' failure to comply with the warranty set out in clause 4.1 if the failure to comply results from:
- 4.3.1 fair wear and tear;
- 4.3.2 wilful damage, abnormal storage or working conditions, accident, negligence by the Customer or by any third party;
- 4.3.3 failure to operate or use the Goods in accordance with the user instructions;
- 4.3.4 any alteration or repair by the Customer or by a third party which is not authorised by the Supplier; or
- 4.3.5 any specification provided by the Customer.
- 4.4 The specification for the Goods shall be as set out in the Supplier's sales documentation unless varied expressly in a Customer Offer which has been accepted by the Supplier.
- 4.5 The Supplier reserves the right to make any changes in the specification of the Goods which are required to comply with any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Supplier's specification, which do not materially affect their quality or performance.
- 5. Price**
- 5.1 The price of the Goods and/or Services shall be the price listed in the Customer Offer which has been accepted by the Supplier or such other price as may be agreed in writing by the Supplier and the Customer.
- 5.2 The Supplier reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Goods and/or Services to reflect any increase in the cost to the Supplier which is due to any factor beyond the reasonable control of the Supplier, including without limitation any foreign exchange fluctuation currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture, any change in delivery dates, quantities or specifications for the Goods and/or Services which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

5.3 Except as otherwise stated under the terms of any Customer Offer which has been accepted by the Supplier or as otherwise agreed in writing between the Customer and the Supplier, all prices are inclusive of the Supplier's charges for packaging and transport as specified in the accepted Customer Offer.

6. Payment

6.1 Subject to any different payment terms which are set out in an accepted Customer Offer, a deposit payment of 25% of the total price shall be paid by the Customer to the Supplier within 14 days of the date on which the Supplier accepts the Customer Offer. Such monies will only be used for work under the Contract (for example for purchasing equipment) and will be repaid to the Customer if the Contract is cancelled by the Customer within the Cooling Off Period, unless the Customer has expressly authorised the Supplier to commence the Services within the Cooling Off Period. The remainder of the total price (including where more or less than a 25% deposit has been paid) shall be paid within 7 days of the completion of the Services or the delivery of the Goods, whichever is the later.

6.2 The deposit or part payment will be held in a separate holding account and will only be used with the Customer's consent or once the Goods and/or Services have been provided. In this way, if the Contract is unable to be completed by the Supplier, the money held in this special account will either be refunded to the Customer or passed directly to another MCS member supplier in order for them to provide the Goods and/or Services in accordance with the Renewable Energy Consumer Code.

6.3 All further payments required to be made pursuant to this Contract by either party shall be made within 7 days of the date of the relevant invoice, without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.

6.4 The time of payment shall be of the essence of the Contract. If the Customer fails to make any payment on the due date in respect of the price or any other sum due under these Conditions then the Supplier shall, without prejudice to any right which the Supplier may have pursuant to any statutory provision in force from time to time, have the right to charge the Customer interest on a daily basis at an annual rate equal to the aggregate of 4 per cent above the base rate of the Bank of England from time to time on any sum due and not paid on the due date. Such interest shall be calculated cumulatively on a daily basis and shall run from day to day and accrue after as well as before any judgment.

6.5 All payments to be made to the Supplier shall be made to the bank account nominated in writing by the Supplier or by any alternative means agreed between the parties.

7. Delivery and Performance

7.1 The Delivery Date is approximate only and time of delivery or installation shall not be of the essence unless previously agreed by the Supplier in writing.

7.2 If the Customer fails to take delivery of the Goods or any part of them on the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Supplier shall be entitled upon giving written notice to the Customer to store or arrange for the storage of the Goods and then, notwithstanding the provision of clause 9.1 of these Conditions, risk in the Goods shall pass to the Customer, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure.

7.3 The Supplier shall, in consideration of the amount(s) being paid in accordance with the accepted Customer Offer, provide the Goods and/or Services expressly identified in the accepted Customer Offer or otherwise agreed under the Contract.

8. **Non-Delivery of Goods**

If the delivery of the Goods has not taken place by the Delivery Date then the Customer may give written notice to the Supplier that they require the Goods to be delivered. If the Supplier fails to deliver the Goods within 20 Business Days after receiving such notice, the Customer may cancel the order and the Supplier's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar Goods and/or Services to those not delivered and/or performed over the price of the Goods and/or Services not delivered and/or performed.

9. **Risk and Property**

9.1 Risk of damage to or loss of the Goods shall pass to the Customer:

9.1.1 in the case of the Goods being installed by the Supplier, at the time that the Supplier notifies the Customer that the installation is complete; and

9.1.2 in the case of the Goods being installed by the Customer, on delivery of the Goods in accordance with the accepted Customer Offer.

9.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Supplier to the Customer for which payment is then due.

9.3 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.

10. **Assignment**

10.1 The Supplier may assign the Contract or any part of it to any person, firm or company.

10.2 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Supplier, such consent not to be unreasonably withheld.

11. **Defective Goods**

In the event that any Goods are defective or do not comply with these Conditions, the Supplier shall seek a repair or replacement under the manufacturer's warranty. For the avoidance of doubt, the manufacturer's warranty is provided directly by the manufacturer and the Supplier accepts no liability under its terms.

12. **Customer's Default**

12.1 If the Customer fails to make any payment on the due date for such payment or if any of the events set out in clause 12.2 below apply to the Customer then, without prejudice to any other right or remedy available to the Supplier, the Supplier shall be entitled to:

12.1.1 cancel the order or suspend any further deliveries of Goods and/or Services to the Customer; and

12.1.2 appropriate any payment made by the Customer to such of the Goods and/or Services (or the goods and/or services supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer).

12.2 This clause applies if:

- 12.2.1 the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract; or
- 12.2.2 the Customer becomes subject to an administration order or makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation; or
- 12.2.3 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- 12.2.4 the Customer (if a trader) ceases, or threatens to cease, to carry on business; or
- 12.2.5 the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

13. **Liability**

- 13.1 If the Supplier fails to perform the Services with reasonable care and skill, it will carry out remedial action at no extra cost to the Customer. If no remedial action is possible, the Supplier will pay for the damage caused.
- 13.2 The Customer shall indemnify the Supplier against all damages, costs, claims and expenses suffered by the Supplier arising from loss or damage to any equipment (including that of third parties) caused by any act or omission of the Customer, or its agent or employees.
- 13.3 Where the Customer consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Customer shall be joint and several obligations of such persons.
- 13.4 The Supplier will advise to the best of its ability the requirements for planning permission. However both parties accept that any advice so given is not expert and is by way of opinion and experience only. If the Supplier advises the Customer that planning permission may not be required, the Customer shall seek confirmation from the planning office. The Supplier shall have no liability to the Customer for any Services which are carried out in contravention of planning laws or regulations.

14. **Communications**

- 14.1 All communications between the parties about the Contract shall be in writing and delivered by hand or sent by pre-paid first class post or sent by fax or sent by electronic mail:
 - 14.1.1 (in the case of communications to the Supplier) to its registered office or such changed address as shall be notified to the Customer by the Supplier; or
 - 14.1.2 (in the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to the Supplier by the Customer.
- 14.2 Communications shall be deemed to have been received:
 - 14.2.1 if sent by pre-paid first class post, two Business Days after posting (exclusive of the day of posting); or
 - 14.2.2 if delivered by hand, on the day of delivery; or
 - 14.2.3 if sent by fax or electronic mail on a Business Day prior to 4.00 pm, at the time of transmission and otherwise on the next Business Day.

14.3 Communications addressed to the Supplier shall be marked for the attention of the Managing Director.

15. **Force Majeure**

15.1 In the event that either party is prevented from fulfilling its obligations under the Contract by reason of any supervening event beyond its control including but not limited to war, national emergency, flood, earthquake the party shall not be deemed to be in breach of its obligations under the Contract. The party shall immediately give notice of this to the other party and must take all reasonable steps to resume performance of its obligations.

15.2 Each party shall be liable to pay to the other damages for any breach of the Contract and all expenses and costs incurred by that party in enforcing its rights under the Contract.

15.3 If and when the period of such incapacity exceeds 6 months then the Contract shall automatically terminate unless the parties first agree otherwise in writing.

16. **Variation**

No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and the Supplier.

17. **Waiver**

No waiver by the Supplier of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

18. **Severance**

If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

19. **Third Party Rights**

A person who is not a party to the Contract shall have no rights under the Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

20. **Governing Law and Jurisdiction**

These Conditions shall be governed by the laws of England and Wales and the parties agree to submit to the exclusive jurisdiction of the English and Welsh courts.

Norcroft Electrical Limited
Sovereign House
Dodworth
Barnsley
S75 3SB

Registered Office: Walter Dawson & Son, 7 Wellington Rd E, Dewsbury, WF13 1HF
Company Number: 05455330
VAT Registration Number: 173 3640 68

Tel: 01226 763127
Fax: 01226 763127
info@norcroftenergy.co.uk

SCHEDULE 1
Consumer Cancellation Form

To
Norcroft Electrical Limited
Sovereign House
Dodworth
Barnsley
S75 3SB:

I/We [*] hereby give notice what I/We cancel my/our [*] contract of sale of the following goods [*]/ for the supply of the following services [*],

Ordered on [*/received on [*],

Name of Consumer(s),

Address of Consumer(s),

Signature of Consumer(s) (only if this form is notified on paper),

Date

[*] delete as appropriate.