



CME Standard Terms and Conditions for the Supply of Services and Goods

1. Definitions and Interpretation

- 1.1 In these terms and conditions "we", "our" and "us" means CME Group Pty Ltd as the trustee for CME Group Trust trading as CME Group, CME Service, CME Projects, CME Energy and CME Sports Lighting.
- 1.2 Customer means the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any quotation, work authorisation, or other form provided by us to the Customer.
- 1.3 Australian Consumer Law means the Competition and Consumer Act 2010 (Cth).
- 1.4 Contract Price; means the amount as appears in the quotation, this agreement or price of the schedule plus any additional costs payable to us.
- 1.5 Contract means this signed agreement and all the terms are binding on the parties.
- 1.6 Goods means any goods supplied by us to the Customer (or ordered by the Customer but not yet supplied) including, and in no way limited to, electrical or communication products.
- 1.7 Latent Conditions means any unforeseen site condition not obvious to us upon a reasonable inspection of the site at the time of the quotation, work authorisation, tender or other form.
- 1.8 Travel Time means the distance from our premises to the customer and return.
- 1.9 Works means the works described in this agreement or our quotation, work authorisation, tender or other form.
- 1.10 CME means CME Pty Ltd (ABN 12 234 057 338) described in Item 1 of the Contract Particulars or if no description has been provided, the entity named in the CME Invoice.
- 1.11 CME Invoice means an invoice setting out the Services and/or Goods supplied to the Client by CME and claiming payment for the provision of those Services and/or Goods.
- 1.12 Works means the scope of works being tendered for as detailed in CME offer which is inclusive of the Goods and/or Services.

2. Validity Period

Our offer is open for acceptance for a period of thirty (30) days from the date of tender submission or such time as the parties agree in writing.

3. Deemed Acceptance

- 3.1 In the absence of written acknowledgement, the performance of any of the Works by CME will be deemed acceptance of the Contract.
- 3.2 Only these terms (not other terms and conditions which may be attached to or incorporated in a purchase order) form part of the agreement between us and the Customer. Our acceptance of a purchase order will not be acceptance of any such terms or conditions.

4. Price

- 4.1 The rates are as per our charges at the time the services are engaged, unless otherwise agreed.
- 4.2 The rates do not include any allowance for latent conditions and we will be entitled to vary our price for the works for any such latent conditions.

- 4.3 We are entitled to be reimbursed for any and all costs and charges levied by any statutory or other authority with respect to the Works we perform for the customer.
- 4.4 Unless otherwise stated, the Contract Price quoted is net and exclusive of Goods and Services Tax (GST).

5. Payment

- 5.1 Except as otherwise agreed by CME in writing, the Client, shall pay all invoiced amounts in Australian dollars, without right of set off, within thirty (30) days from the date of the CME Invoice.
- 5.2 The following forms of payment are accepted: Visa, MasterCard, EFTPOS, cash, cheque or direct deposit.
- 5.3 All payments to be by Australian Dollars unless stated otherwise.
- 5.4 A surcharge of one point five percent (1.5%) may apply to credit card payments.
- 5.5 Cheque payments will be subject to clearance from the Contractor's bank and the customer will pay all dishonour fees.
- 5.6 The Customer is not entitled to any retention or otherwise retain any amount due to us. All payments are to be made without deduction or equitable or other set off whatsoever.
- 5.7 Your payment terms are as stipulated on your quote/invoice or as agreed. Where you have not been otherwise notified, terms of trade are a maximum of 30 days from date of invoice
- 5.8 We reserve the right to suspend the Works if payment is overdue until such time as payment is made.
- 5.9 If the Client fails to pay CME the full amount stated in the CME Invoice in accordance with this clause, then CME will charge interest on the amount unpaid by the Client at a rate of 2% over CME commercial bank overdraft rate. Any debt recovery costs including any legal costs incurred by CME is recoverable from the Client.

6. Access to Site

The Client must provide CME access to the Site and possession of a sufficient portion of the Site to enable CME to properly perform the Works without interference. CME will be entitled to claim an extension of time and costs incurred as a result of any delay caused due to any interference of the Client or others on Site and/or delay in access to the Site.

7. Latent Conditions

Latent Conditions are physical conditions affecting the Site including artificial things but excluding weather conditions which differ materially from the physical conditions which CME reasonably anticipated at the time of submitting its offer. CME will be entitled to claim an extension of time and reasonable costs directly incurred as a result of a Latent Condition.

8. Limitation of Liability

Notwithstanding any other provision of this Contract and to the full extent permitted at law, the total liability of CME to the Client arising out of or in connection with this Contract for all loss, damage, cost or expense suffered or incurred whether in contract or tort (including negligence), in equity, in restitution, by way of warranty or indemnity or under statute shall be limited to no more than fifty percent (50%) of the Contract Price.

9. Consequential Loss

Notwithstanding any other provision of this Contract and to the full extent permitted at law, neither party is liable for any indirect, special, contingent or consequential type losses or damages which includes but is not limited to loss of actual or anticipated profits, loss of opportunity, loss of goodwill or loss of revenue.

10. Proportionate Liability

Subject to clauses 8 and 9 above, CME shall be proportionately liable to the extent that CME caused or contributed to such claim, demand, proceeding, cost, expense, loss, liability or damage under the Contract.

11. Delays

The Client shall reimburse CME all reasonable costs including but not limited to overheads incurred by CME for any delays except for delays caused by no fault of CME.

12. Returned Goods

CME is not under any duty to accept Goods returned by the Client. If CME agrees to accept returned Goods from the Client, the Client must return the Goods to CME at any place directed by CME and on such other terms as CME directs.

13. Storage

CME reserves the right to make a reasonable charge for storage of the Goods or any component of the Client to be used in manufacture or supply of the Goods if delivery instructions are not provided by the Client within 14 days of a request by CME.

14. Title and Risk

14.1 CME will deliver the Goods on the date as set out in Item 7 of the Contract Particulars to the place nominated in Item 8 of the Contract Particulars.

14.2 On the Client's receipt of the Goods, all risk relating to the Goods passes to the Client. However, if the Client provides any components to CME for inclusion in the Goods the risk of those components remains with the Client at all times. CME will use all reasonable care to provide suitable storage of the Client's components but will not be liable for any loss or damage.

14.3 It is acknowledged by the Client that CME fulfils all of its obligations under this Contract once the Goods are delivered by CME and received by the Client or collected by the Client, whichever the earlier.

14.4 Title in the Goods remains with CME until all sums due and owing by the Client to CME are paid in full notwithstanding the delivery, receipt, collection or passing of risk to the Client.

14.5 Until title of the Goods passes, CME reserves and retains the following rights in relation to the Goods until all accounts owed by the Client to CME are fully paid;

14.5.1 to enter the Client's premises, or the premises of any associated entity or agent of the Client where the Goods are located, without liability for trespass or any resulting damage and retake possession of the Goods; and

14.5.2 to keep or resell the Goods repossessed under this clause.

15. Personal Properties Securities Act

15.1 In this clause 15 words and expressions which are not defined in these conditions but which have a defined meaning in the PPSA have the same meaning as in the PPSA.

15.2 The Client acknowledges that CME has a purchase money security interest in the Goods including, but not limited to, where the Client has not paid for the Goods in full prior to delivery.

15.3 The Client acknowledges that if CME has rights and interest in proceeds derived from the Goods such rights and interests constitute a security interest in such proceeds.

15.4 CME may register any security interest on the PPSA register in any manner it chooses (including by registering one or more financing statements in relation to its interest in the Goods, with such expiry dates as CME determines in its absolute discretion). The Client must provide CME with any information it requires for the purposes of giving effect to such registration.

15.5 For the purposes of section 157(3) of the PPSA, the Client irrevocably and unconditionally waives its right to receive any notice from CME in connection with the registration of a financing statement or a financing change statement in respect of the Goods.

15.6 If section 95 or chapter 4 of the PPSA would otherwise apply to the enforcement of any security interests then those provisions are excluded, to the extent possible.

15.7 The Client must take any steps (including provide information) CME reasonably requires to perfect or otherwise ensure the enforceability and priority of any security interest.

15.8 Neither the Client nor CME will disclose information of the kind described in PPSA section 275(1), unless section 275(7) of the PPSA applies.

15.9 Until CME security interest (whether perfected or not) is satisfied, the Client agrees not to cause or allow a security interest of higher priority to be created in the Goods. If the Client breaches this subclause, the Client shall indemnify CME for any cost, expense, loss or damage suffered.

16. Warranty – General

16.1 CME warrants that:

16.1.1 the Goods will be of merchantable quality and be free from substantial defect in workmanship;

16.1.2 All goods and services supplied by us shall have the benefit of any warranty given by the goods respective manufacturer. Subject to your rights under the Australian Consumer Law and to the fullest extent permitted by law, you agree that we will not be liable to you for loss of profit or other economic loss, direct or indirect or consequential, special, general or other damages or other expenses or costs arising out of a breach or contract or any common law duty (including negligence) by us, our agents or employees.

16.1.3 CME warrants the Goods for the period of 3 months following receipt of the Goods and only insofar as the defect is a result of faulty workmanship of CME or the use of substandard materials by CME. If the Client finds a defect with the Goods or Services the Client must notify CME in writing of the defect within seven (7) days of discovery of the defect and must take all reasonable precautions to prevent the use of the Goods;

16.1.4 CME will be responsible for the costs of actual rectification/replacement works only and any associated costs (including removal or transportation costs) shall be borne by the Client; and

16.1.5 if CME uses a subcontractor or supplier or other person to perform any work under the Contract (Other Person), any work, labour and services carried out by the Other Person shall only be warranted by CME to the degree that the Other Person indemnifies CME.

16.2 All Goods and services supplied by us shall have the benefit of any warranty given by the Goods' respective manufacturer. However, subject to the Australian Consumer Law, we will not be liable for any damage, direct or consequential, arising out of any faults or defects including, but not limited to, those caused by:

- 16.2.1 External causes including natural disaster, fire, water, lightning, power surge or spike, accident, neglect, misuse, vandalism.
- 16.2.2 The use of the goods for other than its intended purpose.
- 16.2.3 The use with or connection of the goods to item/s not approved by us.
- 16.2.4 The performance of maintenance or attempted repair by person/s other than us or as authorised by us.
- 16.2.5 Any configuration or reconfiguration by the Customer.

17. Defects Liability Period

- 17.1 The defects liability period will commence from the Completion Date or upon issue of the certificate of practical completion for the Works whichever is earlier and shall be for a period of 12 months, unless otherwise stated in the Contract. Any additional warranty provided by a manufacturer for Goods which CME has supplied will be passed on to the Client on agreement with the manufacturer.
- 17.2 During the defects liability period, CME will make good or replace (as the case may be) defective Goods and/or Services, excluding:
 - 17.2.1 any interfacing between the Client's equipment, Site, plant or design (unless expressly included as part of Services under the Contract);
 - 17.2.2 ordinary wear and tear; and
 - 17.2.3 any damage which has been caused or contributed by the Client's negligence or acts or omissions.

18. Intellectual Property

- 18.1 CME retains all intellectual property and ownership rights of such in any Intellectual Property and other information relating to the Works which is created or modified by CME during the Contract.
- 18.2 The Client acknowledges that CME will not be responsible for any infringement of any intellectual property of the Client that the Client has in any components, material or additional documents and CME will not be liable for any claim whatsoever due to CME use of the Client's intellectual property.
- 18.3 The Client shall indemnify and hold harmless CME against and from any claim alleging an infringement of all intellectual property rights, moral rights and ownership rights in any information provided by the Client to CME.

19. Variations and changes to cost of materials

- 19.1 The Customer shall be entitled to direct that we undertake a variation and such direction shall be in writing and if we are delayed, then the Customer will grant us an extension of time and reimburse us our reasonable delay costs and the Contract Price shall be adjusted accordingly.
- 19.2 We shall be entitled to be reimbursed any additional costs as a consequence of any increase in material costs that exceed 5% of the original cost of such materials at the time of the award of the Contract.

20. Confidentiality

The Client acknowledges and agree that any information submitted by CME in its offer which includes but is not limited to pricing, technical specifications and other information is commercial in confidence and submitted solely for evaluation by the Client. Such information must at all times remain confidential and shall not be disclosed to any third party without CME prior written consent. If such information is disclosed to a third party with CME prior consent, the Client must ensure that as a condition precedent to

the passing of such information that the third party accepts and acknowledges to be bound by confidentiality obligations.

21. Asbestos and other hazardous materials

The Client is responsible for ensuring Works being performed on the Client's Site is in an asbestos and hazardous free environment. The Client is responsible for all costs arising as a result of the presence of asbestos, asbestos contaminated material or any other hazardous material in or on the Client's Site where the Works are required to be performed.

22 Site and Safety

- 22.1 The Customer shall be responsible for the site.
- 22.2 The Customer shall ensure that all legislation and standards applicable to workplace safety are adhered to on the site.
- 22.3 We shall comply with all legislation and standards in the maintaining of safe work practices.

23. Excavations & Existing Underground Services

- 23.1 The Contract is based on any excavation required in performance of the works being in soil or clay and free of rock. The Customer acknowledges that should it be necessary for us to excavate in other material, including but not limited to rock and shale, then such shall be a latent condition and the Customer will pay to us a reasonable extra price.
- 23.2 We shall ring "Dial Before You Dig" prior to any excavation.
- 23.3 We shall be entitled to rely on the "Dial Before You Dig" report being conclusive and binding on the parties.
- 23.4 If the Customer requires us to excavate by hand:
 - 23.4.1 we shall be entitled to an extension of time;
 - 23.4.1 our reasonable costs for any resulting delay;
 - 23.4.3 payment for such excavation at our hourly rates.
- 23.5 If the Customer fails to give us relevant site information and we, through no fault of our own, causes damage to any services, then the Customer shall indemnify and forever hold harmless us from any and all claims for damages made against us.

24. Inconsistency

To the extent of any inconsistencies, the Conditions prevail over any other document.

25. Cancellation

Either party has the right to cancel this Contract because of any event beyond the reasonable control of either party which alters the ability of the cancelling party to fulfil the terms of this Contract. If CME cancels this Contract, the Client agrees and acknowledges that it will not prosecute any claim in law or in equity against CME. The Client agrees if the Client cancels this Contract, it will pay to CME all outstanding CME Invoices and for all Goods and/or Services provided to the Client up to the date of cancellation including any orders placed that cannot be cancelled or a restocking fee if applicable. The Client will also indemnify CME against any losses incurred by CME as a result of the termination.

26. Force Majeure

- 26.1 If performance by CME of any obligation under the Contract is prevented, restricted or delayed by Force Majeure then CME shall be excused from and shall not be liable for failure in performance to the extent of that prevention, restriction or delay and the time for performance shall be extended accordingly, subject to the terms of clause
- 26.2. Force Majeure Events shall include but not limited fire, tempest, government intervention, epidemic or pandemic

infectious diseases, shortages of material/ equipment, labour or utilities.

26.2 If supply is delayed for more than four (4) months by Force Majeure and the parties have not agreed upon a revised basis for continuing the supply at the end of the delay, then either party may after that period and while the cause of non-performance still exists terminate the Contract by not less than 30 days' notice in writing to the other party.

27. Dispute Resolution

If a difference or dispute between the parties arises in connection with the subject matter or interpretation of this Contract, including a dispute concerning a claim in tort, under statute, or on any other basis in law or equity available under the law governing the Contract ('Dispute'), either party may by hand or registered post give the other party written notice of the dispute identifying and providing details of the dispute and entitled Dispute Notice ('Dispute Notice').

Within seven (7) days of receipt of Dispute Notice representatives of the parties having authority to bind the parties shall confer to seek to resolve the Dispute or agree on a method of doing so and whether that method shall be binding. If a resolution or method of resolution has not been agreed within twenty one (21) days of the receipt of Dispute Notice, the General Manager of the parties shall confer for the same purpose as the parties' representatives. All aspects of such conference(s) shall be privileged.

Neither party may institute legal proceedings in respect of any Dispute unless a Dispute Notice in respect thereof has first been given and then only after a period of twenty eight (28) days from receipt of such Dispute Notice has elapsed.

28. General

28.1 The Contract is governed by the law as stipulated in Item 11 of the Contract Particulars and the parties submit to the non-exclusive jurisdiction of those Courts. Where there is no jurisdiction stipulated in Item 11 the jurisdiction is Western Australia.

28.2 Any waiver partly or whole of the terms of the Contract will be valid only if in writing and signed by CME.

28.3 Any provision of the Contract that is prohibited or unenforceable, such unenforceability shall not invalidate the remaining provisions of the Contract nor affect the validity or enforceability of that provision.

28.4 These conditions (which can only be waived in writing and signed by an authorised representative of CME) prevail over all conditions of the Client's order or other documents.

28.5 If additional terms and/or conditions are attached to, incorporated into or accompany the Client's order, those terms and/or conditions are not accepted by CME and do not form part of the Contract unless expressly accepted in writing or signed by an authorised representative of CME.

28.6 Nothing in these conditions shall be read or applied so as to exclude, restrict or modify any condition, warranty, guarantee, right or remedy implied by law and which by law cannot be excluded, restricted or modified.

29. Anti-Bribery and Corruption

29.1 CME is committed to operating in a manner consistent with the laws of the jurisdiction in which it operates, including laws relating to anti-bribery and anti corruption.

29.2 The Client represents and warrants it complies with Anti-Bribery and Anti-Corruption Legislation and that it has and maintains reasonable and effective anti-bribery and anti-

corruption policies and procedures, such policies and procedures to be made available to CME for inspection on demand.

29.3 The Client represents and warrants it has not and will not breach any Anti-Bribery and Anti-Corruption Legislation in connection with the Contract.

29.4 If the Client becomes aware of any breach or suspects a breach of Anti-Bribery and Anti-Corruption Legislation in connection with the Contract it must immediately notify CME in writing and provide reasonable details of such breach or suspected breach and provide reasonable access to information, books and records relevant to such breach.

29.5 If CME, acting reasonably, believes the Client has breached Anti-Bribery and Anti-Corruption Legislation in connection with the Contract, CME must give the Client written notice of such. If the Client, within 30 days of that written notice, fails to show there is no reasonable basis to conclude a breach has occurred, CME may terminate the Contract without further notice to the Client.

30. Building Code

30.1 Where applicable the Subcontractor must comply with the Building Code under the Fair Work (Building Industry) Act 2012 ("the Code"). Copies of the Code are available at www.fwbc.gov.au/what-building-code.

30.2 The Subcontractor shall permit the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, full access to construction sites or places covered by the Code to:

30.2.1 inspect any work, material, machinery, appliance, article or facility;

30.2.2 inspect and copy any record relevant to the Works the subject of this Contract;

30.2.3 interview any person;

30.2.4 request a party to this Contract to produce a specified document within a specified period, being not less than 14 days in person, by fax or by post; as is necessary to allow validation of its progress in complying with the Code.