

TERMS & CONDITIONS OF SALE

1. General

1.1 Except to the extent otherwise agreed in writing, all Goods will be supplied to the Purchaser by FM Electrical Supplies Australia Pty Ltd based on any Quote and Order Acknowledgement issued by FM Electrical Supplies Australia Pty Ltd and these Terms.

1.2 For the avoidance of doubt, and except to the extent otherwise agreed, on acceptance of any Order by FM Electrical Supplies Australia Pty Ltd, a separate contract of sale will arise which will consist of the Order and these Terms, to the exclusion of any other terms and conditions proposed by the Purchaser or which may otherwise be referenced in the Order.

2. Definitions

2.1 In these Terms, the following definitions apply:

ACL means the Australian Consumer Law under the *Competition and Consumer Act 2010* (Cth).

FM Electrical Supplies Australia Pty Ltd, we or us means either of the following entities as identified in the Order: FM Electrical Supplies Australia Pty Ltd (ACN 643 813 236).

Force Majeure Event' means an event beyond the control of FM Electrical Supplies Australia Pty Ltd, which may include an act of God, lightning, storm, flood, cyclone, fire, earthquake, explosion, act of public enemy or war, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, strike, lockout or industrial dispute whether or not FM Electrical Supplies Australia Pty Ltd is a party to it.

Goods means the products and / or the services that FM Electrical Supplies Australia Pty Ltd agrees to supply to the Purchaser in accordance with these Terms and as identified in the Order.

Insolvency Event means when the Purchaser: (a) is in default of the payment obligations under these Terms for more than seven (7) days; (b) disposes of the whole or part of its assets, operations or business other than in the ordinary course of business; (c) ceases to carry on business; (d) ceases to be able to pay its debts as they become due; (e) takes any step to enter into any arrangement between with its creditors; (f) has steps taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator, controller or other like person over the whole or part of its assets, operations or business.

Order means the Quote, the purchase order issued by the Purchaser and the Order Acknowledgement issued by FM Electrical Supplies Australia Pty Ltd.

Order Acknowledgement means FM Electrical Supplies Australia Pty Ltd's acceptance of the Purchaser's purchase order.

Purchaser or **you** means the party listed as the purchaser in the Order.

Quote means any quote or proposal provided by FM Electrical Supplies Australia Pty Ltd for the supply of Goods and which forms part of the Order.

Terms means these Terms and Conditions of Sale.

3. Pricing

3.1 The price quoted by FM Electrical Supplies Australia Pty Ltd for the Goods is based on the cost of supply as at the date of the Quote. A Quote is valid for the time specified on the quotation from the date of issue. FM Electrical Supplies Australia Pty Ltd may vary the price if the Purchaser changes any aspect of the supply under the Quote or otherwise fails to accept the Quote within the specified validity period.

3.2 The price quoted by FM Electrical Supplies Australia Pty Ltd is: (a) inclusive of all applicable import duties and taxes; (b) in local currency (AUD \$); (c) exclusive of any Goods and Services Tax ('GST'), which shall be payable by the Purchaser in addition to the price; and (d) inclusive of all shipping and freight costs, unless otherwise stated in the Order.

3.3 If:

(a) the Quote specifies that all or part of the price is subject to foreign exchange rate variation and there is a decrease of 2.5% or more between the exchange rate set out in the Quote and the exchange rate applicable as at the date of delivery (as published by the Reserve Bank of Australia), FM Electrical Supplies Australia Pty Ltd reserves the right to adjust the

price on account of the exchange rate variation; or

(b) there is a change to any of FM Electrical Supplies Australia Pty Ltd's costs of supply in the period between the date of Quote and delivery as a result of market inflation, the cost of raw materials or logistics, FM Electrical Supplies Australia Pty Ltd reserves the right to an equitable adjustment of the price on account of such changes,

and FM Electrical Supplies Australia Pty Ltd's invoice will be issued on delivery to reflect such changes to the price.

4. Orders

4.1 The Order Acknowledgement will set out the price payable for the Order.

4.2 By written notice to the Purchaser, FM Electrical Supplies Australia Pty Ltd may decline an Order, in whole or in part, at any time prior to issue of the Order Acknowledgement. If FM Electrical Supplies Australia Pty Ltd declines an Order, it will have no further obligation or liability to the Purchaser with respect to that Order.



4.3 If you are a small business, you must acknowledge the Order Acknowledgement by returning a signed copy of the Order Acknowledgement to us within 3 business days (**'Acknowledgement'**). If you do not return an Acknowledgement, FM Electrical Supplies Australia Pty Ltd is under no obligation to accept the Order and will have no further liability in respect of the Order.

5. Delivery and Performance

5.1 Unless otherwise agreed in the Order, all Goods will be delivered by FM Electrical Supplies Australia Pty Ltd Ex Works (Incoterms 2023) from its Australian location.

5.2 On delivery, you must ensure that the Goods are in accordance with the Order. Any claim by the Purchaser for short or wrongful delivery must be made in writing within fourteen (7) days of delivery, and time is of the essence in this regard. The Purchaser will be deemed to have fully accepted the Goods if notice is not provided within this period.

5.3 FM Electrical Supplies Australia Pty Ltd may, at its discretion, deliver the Order by instalments and each instalment will be deemed to be a separate Order. Failure of FM Electrical Supplies Australia Pty Ltd to deliver any instalment shall not entitle the Purchaser to cancel the balance of the Order.

5.4 Any time quoted for delivery or performance is indicative only. Whilst FM Electrical Supplies Australia Pty Ltd will use all reasonable endeavours to meet any delivery or performance date set out in an Order, FM Electrical Supplies Australia Pty Ltd shall not be liable for any loss or damage suffered by the Purchaser if FM Electrical Supplies Australia Pty Ltd is unable to meet those dates. Any reasonable delay in delivery or performance of Order shall not relieve the Purchaser from its obligation to accept or pay for the Goods.

5.5 If delivery or performance is delayed or prevented due to a Force Majeure Event, FM Electrical Supplies Australia Pty Ltd may, as it determines appropriate in the circumstances:

- (a) extend the date of delivery or performance for such period reasonably necessary to overcome the Force Majeure Event; or
- (b) cancel the Order if determines that it will be unable to perform the Order as a result of the Force Majeure Event,

and FM Electrical Supplies Australia Pty Ltd shall have no liability to the Purchaser whatsoever in the event of termination of the Order in the circumstances.

6. Held Orders

6.1 If an Order is delayed or rescheduled at the Purchaser's request, FM Electrical Supplies Australia Pty Ltd may:

- (a) require the Purchaser to reimburse its reasonable expenses incurred in connection with the delay; and/or



(b) store Goods at the sole cost and risk of loss of the Purchaser,

and the Purchaser must pay FM Electrical Supplies Australia Pty Ltd such expenses within thirty (7) days of receipt of FM Electrical Supplies Australia Pty Ltd's invoice for the same.

7. Payment

7.1 Unless otherwise agreed in an Order and subject to cl. 7.2, the Purchaser must pay FM Electrical Supplies Australia Pty Ltd's invoice for the Goods in full within thirty (7) days from the date of invoice.

7.2 FM Electrical Supplies Australia Pty Ltd may, in its discretion, require the Purchaser to pay for the Goods in advance or otherwise provide security in connection with the supply.

7.3 If instalment payments are agreed for an Order and the Purchaser defaults under these Terms with respect to any instalment then FM Electrical Supplies Australia Pty Ltd may treat the default as a breach of the entire Order and, without limiting or waiving any other rights it may have with respect to such default, withhold all future instalments until such time as the default is rectified.

8. Risk and Title

8.1 Risk in the Goods will pass to the Purchaser on delivery. Title in the Goods will not pass to the Purchaser until the Purchaser has made payment for the Goods in full. Until such time as payment is made in full, FM Electrical Supplies Australia Pty Ltd retains full legal title in the Goods supplied.

8.2 Until the Purchaser has paid for the Goods in full, the Purchaser must store the Goods separate from its own goods and mark them so that they can be identified as FM Electrical Supplies Australia Pty Ltd's property.

8.3 If the Goods (or any part of them) are converted into or incorporated in a new product or products ('**New Products**'), the New Products shall be the property of FM Electrical Supplies Australia Pty Ltd to the extent composed of Goods. The Purchaser's right to convert or incorporate the Goods in New Products automatically ceases if there is an Insolvency Event or if FM Electrical Supplies Australia Pty Ltd at any time revokes such rights by notice to the Purchaser.

8.4 The Purchaser may not sell or otherwise dispose of the Goods or New Products until the Goods are paid for in full unless:

(a) they are sold by the Purchaser in the ordinary course of its business; and

(b) that part of the proceeds of sale Goods that represents the price payable for the Goods is paid immediately to FM Electrical Supplies Australia Pty Ltd. The Purchaser will hold those proceeds in trust for FM Electrical Supplies Australia Pty Ltd until such time as they are paid.

8.5 Prior to the Purchaser's payment in full for the Goods:

(a) the Purchaser's right to on-sell Goods or New Products will cease automatically in the event of an Insolvency Event or if FM Electrical Supplies Australia Pty Ltd at any time revokes the power of sale by notice to the Purchaser;

(b) if an Insolvency Event has or is likely to occur, the Purchaser must return Goods to FM Electrical Supplies Australia Pty Ltd immediately on demand. If the Purchaser fails to comply, FM Electrical Supplies Australia Pty Ltd is entitled to take immediate possession of the Goods, and in respect of New Products, is entitled either to the return of Goods or, if physical separation is not reasonably possible, to that part of the value of New Products attributable to the Goods; and

(c) the Purchaser irrevocably authorises FM Electrical Supplies Australia Pty Ltd's representatives to enter on any site where the Goods are located and take possession of the Goods without prior notice and the Purchaser indemnifies FM Electrical Supplies Australia Pty Ltd for all fees (including legal fees on a full indemnity basis), costs and expenses incurred or suffered as a result of any and all prosecution, actions, demands, claims or proceedings brought by or against FM Electrical Supplies Australia Pty Ltd in connection with the retaking possession of Goods or the exercise by FM Electrical Supplies Australia Pty Ltd of its rights under this clause, and the Purchaser shall repay all such fees, costs, losses, damages, expenses or any other sums of money on demand.

9. Security Interest

9.1 The Purchaser acknowledges that FM Electrical Supplies Australia Pty Ltd has a security interest in the Goods and that prior to title in Goods passing to the Purchaser, the Purchaser must not grant any other security interests in the Goods except as permitted by FM Electrical Supplies Australia Pty Ltd in writing. The Purchaser further acknowledges that:

(a) FM Electrical Supplies Australia Pty Ltd may register on the Australian Personal Property Securities Register ('PPSR') in respect of any and all such Security Interests. To the extent permitted by law but without limiting FM Electrical Supplies Australia Pty Ltd's other rights, in respect of each Security Interest created under Terms, the Purchaser and FM Electrical Supplies Australia Pty Ltd agree that sections 125(1), 130, 132(3)(d), 132(4), 135 and 143 of the Australian Personal Property Securities Act 2009 ('PPSA'), do not apply to the Security Interest and are expressly contracted out of by the Purchaser and FM Electrical Supplies Australia Pty Ltd. the Purchaser waives its right to receive a copy of any verification statement relating to the registration of any financing statement or any related financing change statement in respect of the Security Interests created by these Terms, under section 157 of the PPSA. The Purchaser will promptly, on request from FM Electrical Supplies Australia Pty Ltd, execute all documents and do all things reasonably required to enable FM Electrical Supplies Australia Pty Ltd to register a financing statement on the PPSR to ensure that at all times FM Electrical Supplies Australia Pty Ltd has a perfected Security Interest in relation to all Security Interests granted by the Purchaser under these Terms and, if applicable a Purchase Money Security Interest in respect of the Goods. For the purposes of this clause, the terms "Security Interest", "financing statement", "Purchase Money Security Interest", and "verification statement" have the meaning given in the PPSA.

10. Return for Credit

10.1 If the Purchaser wants to return Goods for credit, other than for reason of breach of warranty, then:

(a) FM Electrical Supplies Australia Pty Ltd will not accept return of Goods for credit unless the return is first authorized by FM Electrical Supplies Australia Pty Ltd issuing a Return Material Authorisation ('RMA') number.

(b) Goods will not be accepted for return unless they:

(i) are in original condition and packaging; and

(ii) have a value of more than \$100 (excluding GST) per unit; and

(iii) are less than three (3) months old; and

(iv) are in FM Electrical Supplies Australia Pty Ltd's current catalogue as at the date of return.

(c) Proof of purchase must accompany any claim for credit.

(d) Goods specially purchased or manufactured for the Purchaser and indent items will not be accepted for return.

(e) A restocking fee equal to 20% of the value of the returned Goods must be paid by the Purchaser, unless otherwise agreed in writing by FM Electrical Supplies Australia Pty Ltd.

(f) The Purchaser will be responsible for any and all freight costs, charges and expenses incurred in the return of goods for credit, including any risk of loss during transportation until received by FM Electrical Supplies Australia Pty Ltd.

(g) If FM Electrical Supplies Australia Pty Ltd determines that the Goods returned are not acceptable for return, the Purchaser must arrange for the collection or disposal of rejected Goods. FM Electrical Supplies Australia Pty Ltd will dispose of Goods not collected within 15 days of a rejection letter.

11. Warranties

Warranty for Goods

11.1 For all Goods supplied by FM Electrical Supplies Australia Pty Ltd, to the extent permitted by applicable law and unless otherwise agreed in an Order, FM Electrical Supplies Australia Pty Ltd warrants only that the Goods manufactured and supplied by it will conform to FM Electrical Supplies Australia Pty Ltd's standard commercial specifications (subject to FM Electrical Supplies Australia Pty Ltd's right to incorporate such minor modifications as appropriate or necessary to comply with any relevant laws) and will be free from failure due to defects in workmanship and material for twelve (12) months from the date of installation / commissioning of the Goods or eighteen (18) months from the date of delivery, whichever occurs first.



11.2 Any claim during the Warranty Period must be made in writing to FM Electrical Supplies Australia Pty Ltd. For any valid claim, FM Electrical Supplies Australia Pty Ltd will, at its option and discretion, either: (a) repair or replace the Good, or defective part or component thereof, FOB FM Electrical Supplies Australia Pty Ltd's facility freight prepaid; or (b) credit the Purchaser for the purchase price of the Goods. FM Electrical Supplies Australia Pty Ltd will not be liable for any additional costs, charge, loss or expense in connection with the Claim, including labour, access, removal and installation and transporting of the Goods

11.3 This warranty does not apply in relation to:

(a) any Good supplied but not manufactured by FM Electrical Supplies Australia Pty Ltd (these Good are warranted solely by the manufacturer and FM Electrical Supplies Australia Pty Ltd relies on the manufacturer's warranty);

(b) any Good non-conforming by reason of the Purchaser's (or the Purchaser's customer's) act, omission or negligence in relation to the Goods not in conformance with FM Electrical Supplies Australia Pty Ltd's recommendations and industry standard practice (i.e. for storage and maintenance) or due to the Purchaser's (or the Purchaser's customer's) accident, misuse, abuse or negligence; and

(c) any Good non-conforming by reason of ordinary and expected deterioration or wear and tear.

Warranty for Services

11.5 With respect to any services supplied by FM Electrical Supplies Australia Pty Ltd under these Terms, to the extent permitted by applicable law and unless otherwise agreed in an Order, FM Electrical Supplies Australia Pty Ltd warrants that the services will be performed in a professional and workmanlike manner and will be free from defect for a period of ninety (60) days from the completion of the services ('**Services Warranty Period**').

11.6 Any claim during the Services Warranty Period must be made in writing to FM Electrical Supplies Australia Pty Ltd. In the event of a valid claim:

(a) FM Electrical Supplies Australia Pty Ltd will, as it considers necessary and appropriate, re-perform and correct those Services; and/or repair and replace defective materials or workmanship, at a time to be mutually agreed; and

(b) the Purchaser will, at its cost, provide FM Electrical Supplies Australia Pty Ltd with unobstructed access to the non-conforming services, as well as adequate free working space in the immediate vicinity of the non-conforming services and such facilities and systems, including, without limitation, docks, cranes and utility disconnects and connects, as may be necessary in order that FM Electrical Supplies Australia Pty Ltd may re-perform and/or correct the non-conforming services. The conduct of any tests must be mutually agreed by the parties and FM Electrical Supplies Australia Pty Ltd must be notified of, and may be present at, all tests conducted. 11.7 This warranty does not apply to any services that are

non-conforming due to: (a) the Purchaser's (or the Purchaser's customer's) act or omission other than in compliance with FM Electrical Supplies Australia Pty Ltd's recommendations and industry standard practice; (b) or to the extent the claim arises as a result of the Purchaser's (or the Purchaser's customer's) accident, misuse, abuse, neglect or negligence; or (c) any defects in any equipment not supplied by FM Electrical Supplies Australia Pty Ltd.

12. Limitation on Warranties

12.1 Certain legislation, including the ACL, may imply warranties or conditions or impose guarantees or obligations on FM Electrical Supplies Australia Pty Ltd which cannot be excluded, restricted or modified at all or to a limited extent.

12.2 The warranties above must be read subject to these statutory provisions. If these statutory provisions apply, to the extent to which FM Electrical Supplies Australia Pty Ltd is entitled to do so, FM Electrical Supplies Australia Pty Ltd limits its liability in respect of any claim under those provisions to:

(a) in the case of goods, at FM Electrical Supplies Australia Pty Ltd's option:

(i) the replacement of the Goods or the supply of equivalent goods;

(ii) the repair of the Goods;

(iii) the payment of the cost of replacing the Goods or of acquiring equivalent goods; or

(iv) the payment of the cost of having the Goods repaired; and

(b) in the case of Goods comprising services, at FM Electrical Supplies Australia Pty Ltd's option:

(i) the supplying of the services again; or

(ii) the payment of the cost of having the services supplied again.

12.3 To the full extent permitted by law and subject to the above, the foregoing warranties are the Purchaser's sole remedy and, except for warranty of title, there are no other express or implied warranties including any implied warranty of merchantable quality or fitness for purpose. FM Electrical Supplies Australia Pty Ltd's obligations under the warranties set out in these Terms are FM Electrical Supplies Australia Pty Ltd's sole liability for breach of warranty whether the Purchaser's claims are based in contract, in tort (including negligence or strict liability), or otherwise.

13. Statutory Rights

13.1 The following text has been included in accordance with s. 102 of the ACL: Our goods come with guarantees that cannot be excluded under the ACL. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure. To the extent the Goods are not of a kind ordinarily acquired

for personal, domestic or household use or consumption, then we may limit our liability as we have done in cl. 12 of these Terms, in accordance with s. 64A of the ACL.

14. Limitation of Liability

14.1 Notwithstanding anything to the contrary in these Terms, to the full extent permitted by applicable law, the total cumulative and aggregate liability of FM Electrical Supplies Australia Pty Ltd arising from or related to any Order on any grounds whatsoever shall not exceed an amount equal to the value of the Goods on which such liability is based.

14.2 To the full extent permitted by law, FM Electrical Supplies Australia Pty Ltd will not be liable to the Purchaser in respect of any claim for any loss of profit, goodwill or business, for any interruption to business, loss of, damage to, or unauthorized access to data, breach of system security, failure to transmit or receive data or for any consequential, indirect, special, punitive or incidental loss, whether in contract or in tort.

15. Indemnity

15.1 The Purchaser indemnifies and holds FM Electrical Supplies Australia Pty Ltd harmless from and against all claims, liabilities, losses, damages, costs or expenses incurred or suffered by FM Electrical Supplies Australia Pty Ltd, and from and against all actions, claims or demands made against FM Electrical Supplies Australia Pty Ltd, arising as a result of:

(a) the Purchaser's failure to:

(i) ensure that any safety markings on the Goods are adequately displayed;

(ii) comply with any legislation as to the labelling or marking of the Goods;

(iii) take any other reasonable precautions either to bring to the attention of any potential users of the Goods any dangers associated with the Goods, or to detect any matters in relation to which FM Electrical Supplies Australia Pty Ltd may become liable, including, without limitation, liability under the ACL; or

(iv) otherwise comply with any laws, rules, standards or regulations applicable in relation to Goods or the use of the Goods;

(b) any other negligence or other breach of duty by the Purchaser; or

(c) any compliance or adherence by FM Electrical Supplies Australia Pty Ltd with any instructions of the Purchaser in relation to the Goods or their manner of fabrication.

16. Cybersecurity

16.1 FM Electrical Supplies Australia Pty Ltd is not responsible for a breach of data or electronic system security, including, but not limited to, a system intrusion or interference, virus or malicious code attack, loss of data, data theft, unauthorized access to confidential information and/or non-public personal

information, hacking incident or any acts of data ransom, caused by any third-party equipment, modification made to Goods other than by FM Electrical Supplies Australia Pty Ltd, or failure by the Purchaser to comply with FM Electrical Supplies Australia Pty Ltd's Assemblies Cybersecurity Hardening Guidelines at www.fmes.com.au/assemblies-security (the '**Cybersecurity Guidelines**'). FM Electrical Supplies Australia Pty Ltd may revise the Cybersecurity Guidelines at any time without prior notice.

16.2 The Purchaser is responsible for obtaining (at the Purchaser's expense) assurances from third party suppliers with respect to cybersecurity for third party equipment.

16.3 As a condition of use and/or resale, the Purchaser shall direct all users of the Goods purchased to access the applicable accompanying FM Electrical Supplies Australia Pty Ltd End User License Agreement (EULA) and the Cybersecurity Guidelines, all of which are subject to change in terms and practices, at Seller's discretion, at any time.

17. Termination

The Purchaser may not cancel an Order unless:

(a) for Goods which are indent items or which are specifically manufactured or purchased for the Purchaser, the Purchaser gives written notice no later than ninety (90) days before the date of delivery of its intention to cancel the Order; and

(b) the Purchaser pays FM Electrical Supplies Australia Pty Ltd a reasonable termination charge, which will include all milestone payments paid by the Purchaser and all costs and expenses incurred by FM Electrical Supplies Australia Pty Ltd in connection with the Order, including any direct manufacturing costs, up to the date of termination.

18. Default in Payment

18.1 If the Purchaser fails to make any payment when due, then, without prejudice to FM Electrical Supplies Australia Pty Ltd's other remedies and rights:

(a) interest shall accrue on the amount of the overdue payment at a rate equivalent to the Commonwealth Bank Corporate Loan & Overdraft Reference Rates per annum calculated from the date payment was due; (b) all payments which are not yet due under any Order shall immediately become due and payable by the Purchaser; and

(c) any collection expenses incurred by FM Electrical Supplies Australia Pty Ltd incurred in recovery of such overdue amount will be payable by the Purchaser.

18.2 If an Insolvency Event occurs, or FM Electrical Supplies Australia Pty Ltd believes, based on reasonable grounds, that the Purchaser may suffer an Insolvency Event at some point during the term of an Order, FM Electrical Supplies Australia Pty Ltd shall have the right to withhold further deliveries to the Purchaser and to cancel all outstanding Orders and retain any payments already made, in addition to any other right or remedy available to FM Electrical Supplies Australia Pty Ltd for the recovery of any moneys due or for any antecedent breach by the Purchaser.

19. Purchaser Acknowledgements

The Purchaser acknowledges that (a) the Purchaser acknowledges that neither FM Electrical Supplies Australia Pty Ltd nor any person purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in these Terms; and (b) the Goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption.

20. Intellectual Property Rights

20.1 The Purchaser warrants that any design or instruction furnished to FM Electrical Supplies Australia Pty Ltd shall not cause FM Electrical Supplies Australia Pty Ltd to infringe any intellectual property rights (patents, registered designs, trademarks, copyright, confidential information and the like of any party) in the execution of Order and the Purchaser indemnifies FM Electrical Supplies Australia Pty Ltd against any infringement or unauthorized use of intellectual property rights arising out of FM Electrical Supplies Australia Pty Ltd executing the Order. The Purchaser acknowledges and agrees that the sale of Goods does not confer on the Purchaser any license of or rights to any of FM Electrical Supplies Australia Pty Ltd's intellectual property.

21. Privacy

21.1 FM Electrical Supplies Australia Pty Ltd collects and manages personal information in accordance with the *Privacy Act 1988* (Cth) ('**Privacy Act**') for the purposes of supplying Order to the Purchaser. If FM Electrical Supplies Australia Pty Ltd does not collect such information, FM Electrical Supplies Australia Pty Ltd may not be able to provide the Purchaser with Order requested. FM Electrical Supplies Australia Pty Ltd may disclose personal information to its related bodies corporate (including any of the Australian Government authorities), contractors or suppliers (In Australia & overseas) and to parties whom FM Electrical Supplies Australia Pty Ltd is required to disclose the information by law. Where the Purchaser provides personal information (as defined in the Privacy Act) about its directors or employees or personnel to FM Electrical Supplies Australia Pty Ltd in the course of its dealings with FM Electrical Supplies Australia Pty Ltd, the Purchaser undertakes to notify the relevant director, employee or personnel that:

- (a) their personal information has been provided to FM Electrical Supplies Australia Pty Ltd and the purpose of that disclosure is to enable FM Electrical Supplies Australia Pty Ltd to supply Order to the Purchaser;
- (b) they may request access to their personal information held by FM Electrical Supplies Australia Pty Ltd by writing to FM Electrical Supplies Australia Pty Ltd at the address set out at the end of these Terms; and
- (c) FM Electrical Supplies Australia Pty Ltd may disclose their personal information to its related bodies corporate (including those which are located outside of Australia), contractors or suppliers.

23. General

23.1 Subcontracting: FM Electrical Supplies Australia Pty Ltd may, at its discretion, subcontract the production, manufacture or supply of the whole or any part of the Goods to be supplied.

23.2 Waiver: Failure by FM Electrical Supplies Australia Pty Ltd to insist upon strict performance of any term, warranty or condition of these Terms shall not be deemed as a waiver of any rights FM Electrical Supplies Australia Pty Ltd may have and no express waiver shall be deemed a waiver in respect of any subsequent breach of these Terms.

23.3 Notice: All notices shall be deemed to be given on the date of receipt by the addressee. All notices or communications between the parties must be in writing and sent by mail, facsimile or email to the address indicated in Order.

23.4 Severance: If any provision of these Terms is illegal, void or invalid, it will not affect the legality or validity or enforceability of any other provision of these Terms; and the offending provision will be deemed deleted from these Terms.

23.5 Governing Law: In respect of any Goods supplied or performed in Australia, these Terms and any Order shall be governed by and construed in accordance with the laws of Victoria, and the Purchaser agrees to submit to the non-exclusive jurisdiction of the courts of Victoria.

23.6 Relationship: Nothing these Terms is intended to create an agency, partnership, joint venture employment or fiduciary relationship between the parties.