

Terms and Conditions

1. Definitions

1.1. In these Conditions, unless the context requires otherwise:

'Acceptance'	means the acceptance form or such other documentation which specify the Goods and Services to be provided;
'Conditions'	means the standard terms and conditions set out in this document;
'Confidential Information'	means all information (including all oral and visual information, and all information recorded in writing or electronically, or in any other medium, or by any other method) which would appear to a reasonable person to be confidential and shall include but without limitation all information relating to company ownership and management, commercial and trade secrets, customer and supplier lists, databases, financial information and technical and research information or projects, all technical know-how and processes, Intellectual Property Rights, know-how generally and research collaborations, commercial relationships, products and corporate development strategies;
'Goods'	means the goods we shall supply to you and which you will pay for as further described in the Acceptance;
'Intellectual Property Rights'	means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered an including all applications for and renewals of extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
'Materials'	means any materials, goods, parts or items we need to buy necessarily in order to perform the Services but does not include the Goods;
'Premises'	means the place where we will provide the Services and/or deliver the Goods;
'Services'	means the design, manufacture, installation and repair services which we have agreed to provide to you as set out in the Acceptance;
'you' or 'your'	means the person, firm, partnership, company or local authority to whom we are providing our Services or supplying Goods and who is required to pay for the Services we provide and the Goods we supply as described in the Acceptance;
'we', 'us' or 'our'	means Kings and Barnhams Group Limited and its subsidiary companies trading as Kings and Barnhams.

- 1.2. A reference in these Conditions to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
 - 1.3. The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 2. Entering into a legally binding contract**
- 2.1. A contract between you and us will come into being in one of two ways:
 - 2.1.1. when you sign the Acceptance we and you will enter into a legally binding contract on the date you sign.
 - 2.1.2. where you and we agree orally that we should provide the Services and/or the Goods then there will be a legally binding contract on the date of our oral agreement.
 - 2.2. The supply of Goods and Services by us to you shall be governed by these Conditions and such other terms as we may specifically agree in writing from time to time to the exclusion of all other terms.
 - 2.3. We suggest that before you sign these Conditions or orally agree to us providing the Services and Goods that you read through the Conditions. If you have any questions concerning them please ask us.
 - 2.4. You should keep a copy of these Conditions for your records.
- 3. Providing the Services**
- 3.1. Once we and you have entered into a legally binding contract we will normally start providing the Services to you at the Premises using the Materials on delivery of the Goods or on a date agreed between us without further discussion with you. Occasionally the Services will be provided at some other date or time or be dependent on a number of factors.
 - 3.2. Our aim is to always provide you with the Services:
 - 3.2.1. using reasonable care and skill;
 - 3.2.2. in compliance with commonly accepted practices and standards in the electrical industry;
 - 3.2.3. in compliance with English laws and regulations in force at the time we carry out the Services.
- 4. Goods**
- 4.1. We will supply the Goods specified in the Acceptance and once we have placed an order for the Goods it will not be possible for you to cancel or change what is purchased or supplied (except as you are permitted to do so under law).
 - 4.2. Once the Goods are delivered to you at the Premises it will be your responsibility to look after the Goods (and no longer our responsibility to look after the Goods). If you delay delivery then we will not be responsible for the Goods after the date on which the Goods are made available for delivery by us whether or not the Goods have been delivered (unless any damage which the Goods suffer is due to our negligence).
 - 4.3. Unless agreed otherwise, we will arrange for the Goods to be delivered to the Premises.
 - 4.4. The Goods will be in accordance with statutory requirements, be of satisfactory quality, meet any description concerning them and be fit for their normal purposes. If there are particular purposes for which the Goods will be used then we need to be made aware of these before the Goods are ordered.
- 5. Materials**
- 5.1. At the time we perform the Services we may not have all the Materials we need to perform the Services. This may be for a number of reasons such as:
 - 5.1.1. the need for particular Materials may not be reasonably possible to establish at the time we provide a quotation. The need for the particular Materials may only be revealed when we start performing the Services; or
 - 5.1.2. whether or not we have provided a quotation, the condition of an item which is the subject of the Services may only become apparent when we start performing the Services and it was not reasonably possible to establish it until that point.
 - 5.2. In such cases we may need to purchase Materials. If the Materials are available from a local supplier then we will travel to the supplier and purchase the Materials and return to continue performing the Services. In such cases we reserve the right to charge for the travel time at our normal charging rate. If the Materials are not available from a local supplier we will order the Materials and return to continue to perform the Services. For the avoidance of doubt, we will not charge you for any time spent in obtaining Materials if we have brought or ordered the wrong Materials.

6. Timing

- 6.1. We aim to carry out the Services and the delivery of the Goods by the dates and times we either agree with you or notify to you. But we cannot guarantee or provide a firm commitment that:
 - 6.1.1. we will start performing the Services by a specified date or time; or
 - 6.1.2. we will complete the performance of all the Services by any specified date or time; or
 - 6.1.3. the performance of any individual part of the Services will be completed by a specified date or time; or
 - 6.1.4. the Goods will be delivered at the times or dates specified.
- 6.2. If we do not start or complete performing the Services within a reasonable period from the date(s) we have agreed or notified then you may choose either to continue to wait until we can start performing the Services or complete performing them or you can cancel the contract.
- 6.3. Where we have started performing the Services and you decide you wish to cancel the contract you will only have to pay for any Services we have performed up to the date of cancellation, any sums due under any written contract and for any Goods and/or Materials which we have a legal obligation to pay for. If you have made payment(s) to us in excess of the amount of Services we have performed or Goods and/or Materials we have purchased, we will return the difference to you within 21 days of cancellation.
- 6.4. In addition, there are certain situations or events which occur which are not within our reasonable control (some examples are given in clause 6.5). Where one of these occurs we will normally attempt to recommence performing the Services as soon the situation which has stopped us performing the Services has been resolved. In such circumstances there may be a delay (sometimes a substantial delay) before we can start or continue performing the Services.
- 6.5. The following are examples or events or situations which are not within our reasonable control:
 - 6.5.1. where weather conditions make it impossible or unsafe for us to perform any of the Services; or
 - 6.5.2. if the Materials or Goods are not delivered on the date or at the time agreed with the supplier of the Materials and/or Goods (and it is not possible to obtain a replacement from an alternative supplier at all or within a reasonable amount of time, or the price charged by the alternative supplier is excessively higher than by the original supplier if ordered at short notice); or
 - 6.5.3. for other some unforeseen or unavoidable event or situation which is beyond our control.
- 6.6. If the delay in us recommencing performing the Services will be excessive then we will offer you the option of continuing to wait until we are able to recommence performing the Services. If you are required to make any payments during this period (for example if we and you have agreed that you will pay us in staged amounts) then we will not require you to make any of the payments required until we are able to recommence performing the Services.

7. Price of Goods and Services

- 7.1. The price of the Goods and Services shall be as stated in the Acceptance or otherwise as agreed by us in writing or in the absence of such agreement in accordance with our standard rates.
- 7.2. All prices quoted are valid for 30 days only or until earlier acceptance by you, after which time they may be altered by us without giving notice to you.
- 7.3. We may need to charge you a higher amount than quoted where:
 - 7.3.1. what you require us to do changes, or the amount of work or Services you require us to provide increases or is different to what we and you agreed before we started performing the Services and as stated in the estimate; or
 - 7.3.2. when we start performing the Services, it becomes apparent that the quantity of Services we will need to perform or the type of work that is involved is different to what we agreed before we started performing the Services and we could not reasonably foresee this before we started performing the Services.
- 7.4. We reserve the right by giving notice to you either at any time before commencement of the Services, or at a time as soon as reasonably practical during the provisions of the Services to increase the price of the Services to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of instructions or our requirements, significant increase in the costs of labour, materials or other costs of manufacture), or any delay caused by any of your instructions or your failure to give us adequate information or instructions.
- 7.5. All amounts stated (whether orally or in writing) are exclusive of VAT, which will be added at the rate currently in force.

8. Terms of payment

- 8.1. Subject to any special terms agreed in writing between you and us, we shall be entitled to invoice you for the price of the Services on or at any time after commencement of the same.
- 8.2. You shall pay the price of the Services inclusive of VAT where applicable (but without any other deduction) within 30 days of the date of our invoice in pounds Sterling. The time of payment of the price shall be of the essence of the contract. Receipts for payment will be issued only upon request.

- 8.3. If you fail to make any payment on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to:
- 8.3.1. cancel the contract or suspend any further provisions of the Services to you. Any such period of suspension shall be disregarded for the purpose of contractual time limits previously agreed for the completion of the Services;
 - 8.3.2. charge interest where applicable under the Late Payment of Commercial Debts (Interest) Act 1998 and on all other occasions charge interest at the annual rate of 4% above the base lending rate from time to time of the Bank of England or such clearing bank as we may nominate for this purpose, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and you shall pay the interest immediately on demand; and
 - 8.3.3. charge you the costs of recovery of any outstanding amount including legal costs and disbursements and charge any bank charges incurred on representing cheques or requesting special clearance thereof.
9. **Title**
- 9.1. Notwithstanding delivery and the passing of risk in the Goods or Materials the title in the Goods or Materials shall not pass to you until we have received in cleared funds payment in full the price of the Goods or Services.
 - 9.2. Until such time as the title in the Goods or Materials passes to you, you shall hold the Goods or Material's as our fiduciary agent and shall keep the Goods and Materials separate from yours and that of any third parties and properly stored. The Goods and Materials shall be protected and insured and identified as our property.
 - 9.3. Until such time as the title in the Goods or Materials passes to you (and provided the Goods or Materials are still in existence and have not been resold). We shall be entitled at any time on the happening of any of the events set out in clause 19.2, or if any sum due from you to us (whether under the contract or otherwise) is not paid on the due date for payment, to require you immediately to deliver up the Goods to us and if you fail to do so to enter upon any of your premises or any third party's premises where the Goods or Materials are stored and repossess the Goods and Materials.
 - 9.4. You shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods or Materials which remain vested in us but if you do so all monies owing by you to us shall (without prejudice to any other right or remedy) forthwith become due and payable.
10. **Things you will need to do**
- 10.1. If we are performing the Services at the Premises then you shall:
 - 10.1.1. make the areas where the Services are to be performed ready;
 - 10.1.2. remove any items etc which will stop or hinder in the performance of the Services;
 - 10.1.3. protect your items or possessions from the effects of us performing the Services; and
 - 10.1.4. allow us to gain access to the Premises at the dates and times we and you have agreed we will perform the Services or when the Goods will be delivered.
 - 10.1.5. obtain all necessary consents, permissions and approvals before we start performing the Services.
 - 10.2. Where any Services need to be performed in relation to the Goods (such as installing the Goods, fitting the Goods or making them ready to be used) you shall:
 - 10.2.1. ensure any supplies of such things as electricity, water, telephone and internet connection are available; and
 - 10.2.2. existing systems, goods, wiring, pipes, electricity, gas, walls etc to which Goods are to be connected, added etc are in good working order and suitable for the installation, fitting or configuring of the Goods; and
 - 10.2.3. if the Goods are to be connected to other goods or systems then such connection is suitable and permitted (either by the manufacturer or maker or by law).
 - 10.3. We will not accept liability for any loss or damage caused by your failure to comply with clauses 10.1 and 10.2 and you will indemnify us from and against any and all additional losses incurred by us as a result of such breach.
11. **Some restrictions and assumptions**
- We will assume that all information, measurements and facts ('Measurements') that you provide are accurate and true. We will not accept liability for any loss or damage caused where we reasonably perform our Services in reliance of these. We will be responsible for any Measurements we make or provide.
12. **Non-solicitation of staff**
- 12.1. You shall not solicit or entice away or seek to entice away from us to work for you, whether as principal, agent, partner, director, employee, secondee or consultant, any person who is or was employed by us within a 12 month period prior to the date the Services were completed, and is or was engaged by us in providing the Services.

12.2. If the period stated in this provision is held by a court or tribunal of competent jurisdiction to be void or unenforceable, but would be valid and enforceable if certain words were deleted or the length of the period reduced, the provision will apply with such modification as required to make it valid and enforceable.

13. Intellectual property

13.1. You acknowledge that all copyright, trademark(s) and other Intellectual Property Rights in the Goods, Materials and our bespoke designs are and shall remain vested in us (or our licensors or suppliers) and you are granted only a limited license to use such Intellectual Property Rights in connection with the normal use of the Goods, Materials and our bespoke designs.

13.2. To the best of our knowledge, the Goods and Materials do not infringe any Intellectual Property Rights of any third party, we do not, however, give any particular warranty in this respect.

14. Confidentiality

14.1. You shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to you by us, our employees, agents, consultants or subcontractors and any other Confidential Information concerning our business or the Services.

14.2. You shall ensure that your employees, officer, representatives, advisors, agents or subcontractors to whom you disclose such information comply with condition 14.1.

15. Data Protection Act 1998

15.1. We are registered under the Data Protection Act 1998.

15.2. You acknowledge and accept we may consult or register information about you and the conduct of your account with a licensed credit reference agency. We may also consult a licensed credit agency about any credit information that they hold on you, or your principal directors. We will keep a record of that search either on computer or on manual records.

15.3. As part of our marketing policy we may send to you from time to time details of our products and services. If you do not wish to receive these details then please contact us.

16. Publicity

Our name shall not be used in connection with the contract for purposes of publicity promotion or advertising without our prior written approval. We may publish or join in publishing any description or illustration of the works with your prior consent.

17. Sub-Contracting

We will perform the Services using our own staff. However, we reserve the right to sub-contract the whole or part of the work and will notify you accordingly in writing.

18. Exclusion and limitation of liability

18.1. Subject to special terms and conditions agreed in writing between us and you, these Conditions set out our entire financial liability (including any liability for the acts or omissions of our employees, agents, consultants and sub-contractors) to you in respect of:

18.1.1. any breach of the contract; and

18.1.2. any representation, statement or tortious act or omission (including negligence) arising under or in connection with the supply of the Goods and Services.

18.2. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the contract.

18.3. Nothing in these Conditions shall limit or exclude us:

18.3.1. for any liability for death or personal injury resulting from our negligence or that of our employees or agents; or

18.3.2. for any damage or liability incurred by the you as a result of fraud or fraudulent misrepresentation by us.

18.4. Subject to condition 18.2 and 18.3 we shall not be liable for

18.4.1. loss of profits; or

18.4.2. loss of business; or

18.4.3. depletion of goodwill and/or similar losses; or

18.4.4. loss of anticipated savings; or

18.4.5. loss or damage of goods; or

18.4.6. loss of contract; or

- 18.4.7. loss of use or
 - 18.4.8. loss of corruption of data or information; or
 - 18.4.9. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
 - 18.5. Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance of the contract, shall be limited to (i) the price paid for the Services; or (ii) a maximum of [£x].
 - 18.6. The Goods and Services are provided to you and for your benefit exclusively and all express and implied collateral warranties are hereby excluded. We shall not be liable to any third party who seeks to use the Goods and Services without our express written permission for any loss, damage, expense or injury of any kind whatsoever, consequential or otherwise, arising out of or due to or caused by any defects or deficiencies of any sort in the Services whether such defects or deficiencies are caused by our negligence or our employees or agents or otherwise.
 - 18.7. We shall have no liability to you for any loss, damage, costs, expenses or other claims for compensation arising from any instructions supplied by you which are incomplete, incorrect, inaccurate, or in the wrong form, or arising from your late arrival or non-arrival, or any other fault of yours.
 - 18.8. We accept no responsibility for any drawing, design or specification not prepared by us.
 - 18.9. The repair or replacement of any faulty work or Materials shall only be carried out by us otherwise our warranties as to repair or replacement shall not apply.
 - 18.10. We will take reasonable care but accept no liability for damage to furniture or other fixtures and fittings, which have to be moved by us in order to carry out the Services.
 - 18.11. You acknowledge and agree that the limitation of liability contained in this clause is:
 - 18.11.1. fair and reasonable;
 - 18.11.2. reflected in the level of charges and of insurance cover carried by us; and
 - 18.11.3. just and equitable having regard to the extent of the responsibility of us for any loss or damage suffered, on the basis that all other consultants, contractors and any subcontractors who have a liability shall be deemed to have provided contractual undertakings to you on terms no less onerous than those contained in the contract.
- 19. Events of default, termination, repossession, suspension**
- 19.1. If any of the circumstances in clause 19.2 apply then you shall notify us forthwith in writing of such event and in all cases we may (at our discretion, whether or not we have received notice from you as aforesaid, and without prejudice to our other rights hereunder or otherwise) at any time by notice to you do any one of the acts listed in Clause 19.3.
 - 19.2. The circumstances referred to in clause 19.1 are as follows:
 - 19.2.1. you fail to pay any sums when due or otherwise materially breach any of the terms of the contract or these Conditions, or any other terms agreed with us;
 - 19.2.2. you are, or appear to be unable to pay your debts as they become due, or you otherwise become insolvent or suspend payment or threaten to do so or cease to trade;
 - 19.2.3. you make any voluntary arrangement with your creditors or become subject to an administration order or (being an individual or firm) you become bankrupt or (being a company) go into liquidation (otherwise than for the purposes of amalgamation or reconstruction);
 - 19.2.4. an encumbrancer takes possession, or a receiver is appointed, of any of your property or assets;
 - 19.2.5. you cease, or threaten to cease, to carry on business;
 - 19.2.6. where you are an individual or partnership, you or any partner dies;
 - 19.2.7. outside England and Wales anything corresponding to any of the above occurs; or
 - 19.2.8. we reasonably apprehend that any of the events mentioned above is about to occur.
 - 19.3. The acts referred to in clause 19.1 are as follows:
 - 19.3.1. terminate, cancel and/or rescind the contract and other contracts with you; and/or
 - 19.3.2. declare immediately due, payable and interest-bearing under clause 8.3 above any amounts owed by you to us under any contract; and/or
 - 19.3.3. suspend the provision of any Services to you; and/or
 - 19.3.4. proceed against you for any sums owing under the contract and/or damages, as appropriate.

20. Cancellation by you

- 20.1. Once we and you enter into a binding contract you will normally not be able to cancel the contract, except where we agree or as otherwise provided for in these Conditions or a written contract.
- 20.2. If we agree to cancel then you will be responsible for the cost of:
- 20.2.1. any of our time in performing the Services up to the date we stop providing the Services;
 - 20.2.2. any Materials we are contractually committed to buying up to the date of termination (whether or not we need to pay for them before or after the date the contract between us and you is cancelled).
- 20.3. If you:
- 20.3.1. purport to cancel the contract, or
 - 20.3.2. give notice purporting to cancel, or
 - 20.3.3. otherwise do not fulfil your obligations (such as by not paying any sums due to be paid to us) in a way which amounts to you cancelling the contract,
- we do not have to accept your cancellation except as provided in clause 20.2 or as otherwise provided for in these Conditions or in a separate written contract. However, we may choose to accept cancellation, and if we choose to do so you will be required to pay to us a reasonable amount for the losses and costs (including loss of profit) we have suffered. If you have paid a deposit, this will be retained and if our reasonable losses and costs (including loss of profit) are greater than the deposit we have retained we will require you to pay for our losses and costs in excess of the deposit retained.

21. Amendments to the contract terms and conditions

- 21.1. We will have the right to amend the Conditions where:
- 21.1.1. we need to do so in order to comply with changes in the law or for regulatory reasons; or
 - 21.1.2. we need to correct any errors or omissions (and this right includes the right to change any of the documentation which forms part of the contract), as long as such correction is minor and does not materially affect the contract.
- 21.2. Where we are making any amendment we will give you 30 days' prior notice (unless the contract is terminated before that period).

22. Notices

Any notices which are given in connection with these Conditions shall be in writing and addressed to that other party at its registered office or principal place of business or such other address as the addressee may designate by notice given in accordance with this provision. Any such notice may be delivered personally, electronically, by first class posted letter or facsimile transmission and shall be deemed to have been served if by personal delivery when delivered, if electronically on receipt of a delivery return mail from the correct address, if posted 2 business days after posting and if by facsimile transmission when despatched subject to the production by the sender's facsimile machine of a successful transmission report.

23. Assignment

You shall not assign or licence or attempt to assign or licence in whole or in part the benefit of the contract or any of your obligations under these Conditions hereunder without our prior written consent. We may assign in whole or in part the benefit and/or burden of the contract and may sub-contract our obligations under these Conditions provided that we remain primarily liable for all such obligations.

24. Waiver

No waiver by us of any breach of the contract by you shall be considered as a waiver of any subsequent breach of the same or any other provision.

25. Contracts (Rights of Third Parties) Act 1999

For the purposes of the Contracts (Rights of Third Parties) Act 1999 this contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

26. Law and jurisdiction

These Conditions and the contract shall be governed and construed by the law of England and you and us agree to submit to the jurisdiction of the courts of England.

27. Authority

The person signing these Conditions warrants that they have full authority to do so on behalf of you.



Kings & Barnhams

"Over 70 years of Professional service"

3 George Edwards Road, Fakenham, Norfolk. NR21 8NL. 01328 862080

ACCEPTANCE OF QUOTATION FORM

Customer's Details:

This document sets out the goods and/or services we will provide to you and our quotation for the goods and/or services being provided. In signing this document you are confirming you agree to us providing the goods and/or services for the quoted price and agree to be bound by our Terms and Conditions (a copy of which is attached).

Goods and/or services to be provided:

Quoted price for the goods and/or services:

I hereby confirm that I have read and understood this document and the attached Terms and Conditions and agree to be bound by this document and the attached Terms and Conditions.

Signature:.....

Name:.....

Date:.....



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Kings & Barnhams is the trading name of Kings & Barnhams Group Limited and its subsidiary companies.
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Our terms and conditions of sale apply and are those found at www.Kingsandbarnhams.co.uk

