

Terms & Conditions of Trade

GENERAL

1.1 In these terms and conditions "CSL" means COMFORT SOLUTIONS Limited together with its agents, administrators and assigns.

1.2 Any goods or services (the "Work" or "any Work") supplied by CSL to the Customer will be supplied on these terms and conditions. If the Customer orders Work, the Customer will be deemed to have accepted these terms and conditions. The only circumstance where any variation to these terms and conditions will apply is where CSL has expressly agreed in writing to that variation.

1.3 Where requested, estimates will be provided before Work is commenced. Estimates may be revised as the specifications of a project evolve or when there are changes to a project's initially defined content and scope. Estimates are valid for 30 days.

2. PRICE

2.1 Work will be invoiced at the price set by CSL plus GST on the date the Work is provided and in the case of goods the date of despatch by CSL unless otherwise expressly agreed in writing by CSL.

2.2 The Customer acknowledges that CSL may alter prices without notice and that the purchase price of Work may be different from the price quoted or the price current when Work was ordered.

2.3 Charges for items and expenses such as photocopying, facsimiles, toll calls, couriers, travel, materials and postage ("Disbursements") are not included in the price quoted for Work but are payable by the Customer when invoiced for same.

2.4 If a project or Work is terminated before completion, CSL will be compensated by the Customer for all Work done and Disbursements incurred up to the date of termination and reserves its right to charge for products already ordered and administration costs.

3. VARIATIONS TO PRICE ESTIMATED OR QUOTED

3.1 Changes to the brief that require extra Work to that specified in the original cost estimates may result in additional charges. Where possible, these items will be negotiated and agreed before further work is put in hand, otherwise they will be charged on the basis of our normal rates.

3.2 Where changes to the brief, whether as a result of customer request or by necessity due to unforeseen circumstances, require either less than four hours labour or less than \$320.00 plus GST in costs, then CSL will attend to completing the additional work and invoice the Customer accordingly.

Variations which will exceed these amounts will first require the Customer's authority, except in emergencies.

3.3 CSL's quotes or estimates are subject to the following:

(a) where the Work requires concrete work to include core drilling, concrete cutting, concrete chasing or trenching, then this additional work will be completed by subcontractors and charged to the Customer in addition to the estimated/quoted price.

(b) the price estimated/quoted for radio frequency work will be subject to an aerial survey and final positioning. Estimates/quotes for radio frequency work are based on a standard UHF aerial on a two metre braced mount unless otherwise stated.

(c) CSL reserves the right to charge for additional travel and costs if multiple trips are required to the site due to either restricted access or the staging of the project or Work.

(e) CSL reserves the right to charge additional urgency fees if urgent attendances are required.

(f) the estimated/quoted price is subject to the final location of the equipment rack. If the location requires changing due to either Customer request or necessity, CSL reserves the right to charge for additional labour and equipment costs as appropriate.

(g) the estimated/quoted price is subject to the agreed location and numbers of all electrical outlets as per the plans supplied by the

Customer or by agreement. Any changes to the number or location of the outlets may incur additional costs to be charged to the Customer

(h) the estimated/quoted price includes the supply of lock strikes, maglocks, drop bolts, floor boxes and gate actuators where stated but does not include installation of the same as this will require specialist input. CSL will supply the Customer's contractor or builder as appropriate so that installation can be arranged.

(i) should the Customer require CSL to install equipment not supplied by CSL, CSL reserves the right to charge for the additional time and equipment required to install the supplied equipment and to ensure the connection is successful. In these circumstances, the Customer must supply the equipment to CSL at least one month before the required installation date.

4. PAYMENT

4.1 Payment is due in full within seven days of the date of invoice. However, CSL reserves the right to alter the payment terms including the requirement for payment for any Work in cash before the Work is delivered. The terms will be stated on the front of the invoice.

4.2 CSL reserves the right to request a proportion of its estimate to be paid upfront prior to commencing any of the Work detailed in any estimate.

4.3 The Customer may not deduct or withhold any amount (whether by way of setoff counterclaim or otherwise) from any money owing to CSL. Receipt by CSL of any cheque or other bill of exchange intended as payment for Work shall not constitute payment until same has been honoured and cleared.

4.4 If full payment for any Work is not made to CSL by the due date for that payment, then the Customer shall be in default and the Customer shall at CSL's discretion (and without affecting any other right CSL may have), pay default interest on any amount outstanding to CSL in accordance with the following:

(a) the default interest rate shall be 2.5 per cent per month; and,
(b) default interest shall accrue on a daily basis from the date when payment is due until the date when payment is actually made; and, In addition, the Customer shall be liable to pay all expenses and costs incurred by CSL in relation to CSL obtaining or attempting to obtain a remedy for the failure to pay including all debt recovery costs, debt collection agency costs, legal costs as between solicitor and client and administration fees.

4.5 All payments pursuant to 4.4 shall be payable upon demand. The charging of default interest shall in no way imply the granting or an extension of credit by CSL to the Customer.

4.6 CSL reserves the right to discontinue any Work in hand for the Customer in the event of non-payment of accounts at the correct time.

4.7 CSL requires payment for the Work in the following manner:
(a) the deposit required as stated on the estimate/quote is to be paid upon acceptance and prior to any work commencing.

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(b) a further 40% (or any other percentage as advised by CSL) of the value of the estimate/quote will be invoiced before commencement of Fitoff.

At this time 90% of the value of any agreed variations will also be invoiced, plus any outstanding travel costs, perdiems and accommodation costs.

(c) payment will be required before Fit-off commences.

(d) The final 10% (or any other percentage as advised by CSL) of the value of the estimate will be invoiced upon practical completion* of all works.

At this time the full value of any subsequent agreed variations, plus any outstanding travel costs, perdiems and accommodation costs will be invoiced.

(e) "practical completion" is deemed to have been achieved when all systems are fully commissioned and will not be subject to delay by

factors outside the control of CSL, ie: A third party gate subcontractor unable to attend site for two weeks would not delay practical completion.

(f) Payment for the final 10% is due within 7 days of the date of invoice.

5. WARRANTIES AND LIABILITIES

5.1 CSL warrant the workmanship of the Work for a period of 60 days from the date of practical completion; fair wear and tear and damage beyond CSL's control excepted but such warranty shall not apply:

(a) to Work which has been repaired by any person not authorised by CSL to do such repairs;

(b) to any Work which has been incorrectly installed, maintained, handled or stored by anyone other than CSL;

(c) to any Work which has been modified in any way;

(d) if the recommendations as to use, installation or maintenance of the Work as contained in current product data produced by CSL/Manufacturer have not been adhered to (it being the responsibility of the Customer to obtain that information);

(e) to any Work not supplied by CSL.

5.2 Except for the warranty in clause 6.1, all warranties, descriptions, representations or conditions whether implied by the Sale of Goods Act 1908 or otherwise are expressly excluded to the fullest extent permitted by law.

5.3 To the fullest extent permitted by law, CSL and the Customer contract out of the Consumer Guarantees Act 1991.

5.4 CSL shall not be liable to the Customer for any loss or damage arising from, caused by or due to any negligence of CSL directors, employees, representatives, servants or agents. CSL shall not be liable for any special, incidental, indirect or consequential loss or damage which may result from or relate to a breach by CSL of any of its obligations nor be under any liability to the Customer for any loss or damage whether arising or resulting directly, indirectly or consequentially from any act, neglect or default on the part of CSL.

5.5 In any event, the total liability of CSL whether in tort (including negligence), contract or otherwise for any loss, damage or injury arising directly or indirectly from any defect in or non-compliance of any Work or any other breach of CSL's obligations shall in any case be limited at CSL's option, except where statute expressly requires otherwise, to either the repair or replacement of the Work complained of, or the refund of the purchase price (provided that if CSL is no

longer supplying the identical product or service at the time of the claim, it may replace the product or service with the closest equivalent then being supplied).

5.6 While CSL will make every effort to ensure the accuracy of any advice, recommendation, information, assistance or service provided by CSL in relation to the Work, CSL does not accept any liability or responsibility in respect thereof.

5.7 The Customer will familiarise itself with the current literature produced by CSL.

5.8 CSL will have no liability either in contract or in tort for any loss suffered by the Customer or any third party claiming through the Customer for which CSL has not accepted in writing for such loss.

5.9 CSL makes no representations or warranties in respect of the Work supplied by it to the Customer unless such representation or warranty is made by CSL in writing to the Customer.

6. RISK

6.1 All risk in the Work supplied by CSL shall pass to the Customer on delivery and installation.

7. PPSA

7.1 These terms and any contract between CSL and the Customer constitutes a security interest in any goods supplied by CSL to the Customer for the purposes of the PPSA (Personal Property & Securities Act) as security for payment by the Customer of all amounts due to CSL, including any future amounts.

7.2 The Customer agrees to promptly execute and deliver to CSL all assignments, transfers and other agreements and documents and do anything else which CSL may deem appropriate to perfect CSL's security interest over the Customer and the goods or obtain the priority required by CSL or register (and renew registration) a financing statement for a security interest in favour of CSL.

7.3 To the extent that Part 9 of the PPSA applies, the Customer agrees that the provisions of sections 114(1)(a), 120, 122, 133 and 134 of the PPSA which are for the Customer's benefit, or place any obligations on CSL in the Customer's favour, will not apply; and where CSL has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply.

7.4 To the extent that Part 9 of the PPSA applies, without limiting anything in the previous paragraph, the Customer hereby waives its rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA, and its rights to receive a copy of a verification statement under section 148 of the PPSA in respect of any financing statement or financing change statement registered by CSL.

7.5 The Customer agrees to treat the security interest in the goods as a continuing and subsisting security with priority over a registered general security interest and any unsecured creditors, regardless of whether the goods have become fixtures at any time before payment has been made for them.

8. OTHER RIGHTS OF COMPANY

8.1 In the event that:

(a) any amounts payable by the Customer to CSL is overdue, or the Customer fails to meet any other obligation to CSL (whether in relation to the sale of goods or otherwise), or in CSL's opinion the Customer is likely to be unable to meet its payment or other obligation to CSL; or,

(b) the Customer becomes insolvent, has a receiver appointed in respect of all or some of its assets, makes or is likely to make an arrangement with its creditors or has a liquidator (provisional or otherwise) appointed or is placed under statutory or official management; or,



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(c) the ownership or effective control of the Customer is transferred or the nature of the Customer's business is materially altered; CSL shall be entitled to cancel all or any part of any contract or contracts with the Customer which remains unperformed, in addition to and without prejudice to its other remedies; and All amounts outstanding under any contract with CSL shall whether or not due for payment, immediately become due and payable; and CSL shall be entitled to reclaim any goods in the Customer's possession or control and to dispose of them for its own benefit and for that purpose CSL shall be entitled, without notice to enter directly or by its agents on any premises where it believes goods which it has supplied may be stored, without in any way being liable to any person.

9. PRIVACY ACT 1993

9.1 The Customer acknowledge that CSL may:

(a) collect from and disclose to the Customer, any Guarantor, or any appropriate third party any personal information concerning the Customer or a Guarantor as CSL may consider appropriately required;

(i) for the purpose of completing the Work for the Customer; or
(ii) for any other purpose in trade with the Customer or any Guarantor under the circumstances at the time of that collection or disclosure.

(b) use and retain any personal information which related to the Customer or any Guarantor as may be required by CSL in the ordinary course of its business.

10. SEVERANCE

10.1 If any clause or part of a clause of these terms and conditions is held to be invalid or unenforceable for whatever reason to the extent not inconsistent with the aforementioned invalid clause, the remaining provisions shall remain in full force and effect.

11. FORCE MAJEURE and DELAY

11.1 CSL shall not be liable for any delay in performing its obligations under this agreement to the Customer caused in whole or in part by force majeure which shall include (but not limited to) an act of God, natural disasters, strikes, lockouts, fire, war suit, civil commotion, inability to obtain products or supplies including the imposition of any export or import bans or any other cause beyond the reasonable control of CSL.

11.2 Any time or date given by CSL for delivery or installation of Work is intended only as an estimate and CSL shall not be liable for the consequences of delay however arising and the Customer acknowledges that CSL will not accept any liability for any claims or losses arising from its failure to meet the delivery or installation date (if any).

12. MISCELLANEOUS

12.1 If at any time CSL does not enforce any of these terms and conditions or grants the Customer time or other indulgence, CSL shall not be construed as having waived that term or condition or its rights to later enforce that or any other term or condition.