

# Hampton Tedder Electric Company (HTE) Terms and Conditions

**Complete Contract** – This document contains the complete and exclusive statement of the terms of the contract between us. It supersedes all previous requests, quotations or agreements. No additional or different terms will be part of the contract unless approved by a quorum of the Board of Directors of Hampton Tedder Electric Company (HTE) in writing. It is agreed that if you issue your own purchase order or subcontract for services or materials, such purchase orders or subcontracts are accepted by HTE subject to these Terms and Conditions, which are hereby incorporated into any such purchase orders issued by you, unless otherwise specified on the face of this agreement. These Terms and Conditions shall prevail in the event of a conflict between the languages hereof and any language contained in your purchase orders or other documentation.

**Prices and Order Acceptance** – Our quotes include labor and material and are subject to prices at time of order acceptance by HTE. On “hold for release” orders, prices are subject to change if you accept our quote after our written quotation expiration date or after thirty (30) days from quote date. All quotations for your use in submitting a job or project bid to your customer expire thirty (30) days from the date on the proposal, and may be withdrawn earlier by us with no penalties.

**Payment** – Each invoice shall be due and payable net upon receipt. Any order from you represents that you are solvent. If you have been delinquent in payment or if we believe that your financial condition requires it, we reserve the right to require full or partial payment prior to job start date. If payment is not made when due, (i) your account may be subject to suspension of open account privileges, (ii) you agree to pay a late charge on the amount past due at the rate of 1½% per month (18% per year) or the maximum lawful rate, whichever is less, and (iii) we may pull our workers and stop our work, with no penalties, until your account is current. Sales are not subject to retention of any kind. Should retention be negotiated; retention is due no later than 30 days after our retention invoice. In the event of non-payment, you agree to pay our reasonable attorney’s fees and court costs, if any, incurred to collect payment and interest charges. Emergency repair work has no fixed estimate; they will be billed on a Time and Material basis per our current rate sheet.

**Interpretation Responsibility** – When plans and specifications are involved, you are responsible to verify our interpretation of them. When substitutes are offered by us on any proposal, you are responsible for their acceptability unless the proposed substitute or alternate is rejected in writing within seventy-two (72) hours.

**Excusable Delays** – HTE shall be excused from performance when, and to the extent that, such performance is delayed or prevented due to causes beyond the reasonable control of HTE. These causes may include, without limitation, acts of nature, labor disputes, government priorities, transportation delays, insolvency or other inability to perform by the manufacturer, or any other commercial impracticability. In the event of any such delay, the date of performance shall be extended for a period equal to the time lost by reason of delay.

**Limited Warranty** – HTE warrants its labor for one (1) year from installation date. We will use our best efforts to obtain from each manufacturer, in accordance with the manufacturer’s warranty, the repair or replacement of goods that may prove defective in material or workmanship. This is your exclusive remedy. **Other than warranty of title and such express warranties as may arise from the description of the services and material set forth on the face of this contract, HTE expressly disclaims any and all warranties, including but not limited to the warranties of merchantability and fitness for intended purpose, and you agree to take the goods “As Is” and “With All Faults”.**

**Limitations of Remedies and Damages** – The total liability of HTE and its suppliers to you, your customers or to any other person, relating to this contract, its performance or non-performance, or from the use of the product furnished, is limited to the price of the goods giving rise to the claim. All such liability shall terminate at the end of the manufacturer’s warranty period. Under no circumstance will liability exceed available insurance funds. HTE and its supplier will not, in any event, be liable for any special, incidental, consequential, punitive or penal damages including, but not limited to, back charges; labor costs; costs of removal, replacement, testing or installation; loss of efficiency; loss of profits or revenues; loss of use of the products or any associated products; damage to associated products; lateness or delays in delivery; unavailability of products; cost of capital; cost of substitute products, facilities or services; downtime; or claims from your customers or other parties to you or directly to us for such damages.

**Cancellation** – You may cancel your order, provided that you give written notice to us and pay us cancellation charges, if any. Cancellation charges may include HTE’s expected costs and profits. A minimum \$450 charge will apply to any services cancelled (or rescheduled) within 48 hours of the date the service was scheduled to commence.

**Assignment** – Any assignment of the contract will be void without the prior written consent of all parties, which will not be unreasonably withheld.

**Disputes and Interpretation** – This contract will be interpreted in accordance with California law. Venue for any dispute resolution process, including but not limited to an action at law, shall be exclusively in San Bernardino County, California. If any term, condition or covenant of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this agreement shall be valid and binding. HTE’s waiver of any term, condition or covenant, or of your breach of any term, condition or covenant shall not constitute the waiver of any other term, condition or covenant or of the breach of any other term, condition or covenant.

**Work Authorization** – Your representatives are presumed to have authority to approve regular or extra work. If you wish to designate only certain individuals that have authority to approve regular or extra work, HTE must be notified of their identity in writing by certified mail not later than 72 hours prior to the start of the job.

**Schedule** – HTE bids all projects with a specific schedule. Any change in that schedule without HTE’s prior written agreement may result in extra charges and or HTE stopping work until a new schedule is agreed upon. If no new schedule is agreed upon HTE may pull of the job, in which case you shall be responsible for work completed and all associated current and expected costs and profits associated with that job.

**Invoicing** – HTE will provide progress and final invoice as job progresses. We will invoice for job preparation, mobilization, materials and labor on a percent completion basis. It is your responsibility to make sure HTE’s invoices are approved and reaches the proper A/P department individual to expedite payment within seventy-two (72) hours of HTE invoice submission. Any discrepancies must be identified to HTE in writing within seventy-two (72) hours of receipt of invoice. All invoices are net upon receipt. Late charges of 1½% per month will commence thirty (30) days from date of invoice.

**Differing Site Conditions** – HTE assumes that your adjoining equipment not specifically in our scope is in good operating condition. HTE bids projects with a specific scope of work and procedure. Should that scope of work and procedure change because your adjoining equipment is not good or the work conditions are not as we interpret them, HTE reserves the right to be paid an extra. Work will stop until a new scope, schedule and price is agreed upon with no penalties to HTE. If you and HTE cannot come to an agreement HTE will be entitled to be paid for all work completed and all associated current and expected costs and profits associated with that job. Warranty is void on work not completed by HTE.

**Liquidated Damages** - HTE will not be responsible or liable for any liquidated damages. You shall indemnify and hold HTE and our subcontractors harmless for any cost associated with work stoppage, delays, loss of production, etc..

**Your Responsibilities include, but are not limited to:**

- You shall provide at least one (1) person familiar with the site and work to be performed to be present and act as your representative at all times.
- You shall provide ready access (within fifteen (15) minutes) 24 hours a day to all equipment within HTE’s scope of work to allow continuous progression of work. Any delays or travel time (portal to portal) for additional site visits to complete our scope of work will be billed as an extra.
- You shall provide all current and previous test reports, instruction books, device settings, drawings/schematics, special manufacturer software; including manufacturer test equipment, test cables or cable leads, etc... necessary to set or test devices under test
- You shall arrange for utility outages, test equipment rigging, test site lighting and test power at the point of need unless otherwise provide within the proposal.
- You shall provide details for safety training and security including site badges prior to proposal acceptance by you. If full disclosure is not supplied all time incurred to comply with these measures to meet your requirements will be billed to you as an extra.
- An overtime differential will be accessed to you for overtime hours worked which were quoted in the proposal to be worked on straight time.
- HTE will not be responsible for any costs associated with “Witness Testing” for initial or retests.
- HTE tests in accordance with NETA and performs “Acceptance Testing” per the latest “NETA Acceptance Testing standards”. Startup, Commissioning and/or Turn Key testing or similar phrases used in your documentation needs to be fully described in your required specifications prior to accepting HTE proposal. No clear definition exists for these alternate phrases in the NETA specification or the IEEE dictionary. Therefore, our quote is for acceptance testing only.
- You are responsible to insure that (i) all conduits are free and clear, (ii) all ground and bonding points meet code, (iii) all cable and equipment supports are in good condition, (iv) all equipment safety clearances and bending radius are within code, (v) all equipment is free of flooding and water damage, and (vi) proper accessibility for cable pulling equipment, lifting equipment and manpower is available. Your system must be intact and in code.
- You may pay a delay cost of 4 hours per day per scheduled man if we are pulled off a continuously running project and not allowed to complete our work, due to your delay.

**Test Reports** – Provided approx. 20 working days after job completion. Daily or preliminary reports are extra cost. Report revision after 30 days is an extra charge.

**Working Hours** – Normal working hours are eight (8) hours per day. Time starts at your site and ends when our men return to our shop; unless otherwise agreed by HTE and you in writing. Normal working hours are between 7:30am and 4:00pm. Please note Rates are strictly defined on our rate sheet, Overtime rates may apply during normal working hours and other hours. Overtime will consist of any time worked before and after normal working hours, Saturday, Sunday, holidays, and emergency call outs during normal working hours. Should an employee be required to work around the clock, remain at the jobsite, or receive less than 8 hours rest; he/she will remain on Overtime until he/she receives 8 hours rest, or as per the Local Union Agreement. Overtime is double regular time.

**Code of Conduct** Hampton Tedder employees shall be made aware of all jobsite hazards and not subject to any form of harassment or discrimination. Our employees shall not be solicited for employment or employed for a period of one (1) year past the last day of this contract, with this customer or any of its related companies.

**Rates** – All rates are per HTE current rate sheet.

**Clarifications to Proposals** – Unless specified in our bid; the following is not included in our bid and will be billed as an extra per our Time and Material Rate Schedule: Additional labor required to meet site specific safety items or additions above standard practices of Cal-OSHA Title 8 High Voltage Safety work orders, overtime, testing, conduits, raceways, structures, wire ways, cables, conductors, wires, poured, formed concrete pads, vaults, hand holes, removing, replacing existing gypsum board, ceiling grid, mechanical duct, mechanical piping, other contractor installed equipment, demo, cable pulling, plan check, permit engineering, performance bonding, onsite meetings not related to scope changes, more than two (2) one (1) hour construction meetings per month, contractor or owners controlled (or supplied) insurance programs, fees or additional accounting.

**Materials Furnished by Others;** in the event the scope of Work includes installation of materials or equipment furnished by others, it shall be the responsibility of the customer to examine the items so provided and thereupon handle, store and deliver such materials and/or equipment to the work area in a timely manner. Loss or damage to materials and/or equipment or other delays shall be dealt with in a time and material change order. Title to and risk or loss or damage to any equipment furnished by Hampton Tedder shall pass to the purchaser (customer). Purchaser to attain all licenses and permits, should laws change after contract acceptance. The purchaser will pay for any extra costs associated with changing laws. Engineering studies may be corrected, if notified in writing up to 6 months after delivery. Correction is customer’s sole remedy. All warranty work is to be provided on straight time, if overtime is required, the rate schedule differential will be paid to Hampton Tedder. If any part, paragraph or portion of the quotation, these terms and conditions or the subsequent contract are found to be invalid by virtue of law or legal decision, the remainder of these terms and conditions shall not be affected and shall remain fully enforceable.