



TERMS AND CONDITIONS

These are the Terms and Conditions for the sale of all products and services supplied by Coast Fire Safety Pty Ltd (ABN 77 613 392 046) of PO Box 371, Gympie, Qld, 4570 trading as Coast Fire Safety, Bundaberg Fire Safety, Gympie Fire Safety, Sunshine Coast Fire Doors and Frames, and Vision Fire Safety (the "Contractor") to any person or company placing an order with the Contractor for the purchase of any products and services (the "Client").

Except as otherwise expressly agreed upon in writing between a duly authorised officer of the Contractor and the Client, these Terms and Conditions shall apply notwithstanding any provisions to the contrary which may appear on any order form or other document issued by any Client.

1. DEFINITIONS

In this document, unless the context requires otherwise, the following words have the following meanings:

Agreement means these Terms and Conditions, the Contractor's Privacy Policy and the Contractor's Website Terms of Use found on the Website, together with any estimate, order, invoice or other document or amendments expressed by the Contractor to be supplemental to this Agreement;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Queensland, Australia;

Claim means any claim, demand, remedy, suit, action, penalty, liability, proceeding, right of action, claim for compensation or claim for abatement of any monetary obligation, whether arising under contract (including this Agreement), in tort (including negligence), at common law, in equity, under statute, under an indemnity or otherwise;

Confidential Information means all confidential, non-public or proprietary information exchanged between the parties pursuant to this Agreement relating to the business, technology or other affairs of either party or which comes into a party's possession pursuant to, or as a result of, any negotiations or discussions in connection with this Agreement including the existence, nature and terms of this Agreement, any amounts to be exchanged under this Agreement, whether disclosed verbally, in writing, in electronic form or by any other means;

Fees means the fees charged by the Contractor to the Client based on, at its sole discretion, either:

- (a) the Contractor's estimate which will be valid for the period stated in the estimate or otherwise for a period of thirty (30) days plus any additional applicable costs that may arise;
- (b) the Fees as at the date of delivery of the Services according to the Contractor's current price list; or
- (c) as indicated on any invoice provided by the Contractor;

GST has the meaning given in the GST Act;

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

Insolvency Event in relation to a party means:

- (a) the party is or becomes unable to pay its debts as and when they fall due or is otherwise presumed to be insolvent under the insolvency laws applying to that party;
- (b) the party suspends or threatens to suspend payment of its debts generally;
- (c) other than in respect of a solvent winding-up, the calling of a meeting to consider a resolution to wind up the party (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the party) or the making of an application or the making of any order, or the passing of any resolution, for the winding up, liquidation or bankruptcy of the party other than where the application or order (as the case may be) is set aside within 14 days;
- (d) the appointment of a provisional liquidator, liquidator, receiver or a receiver and manager or other insolvency official to the party or to the whole or a substantial part of the property or assets of the party;
- (e) the appointment of an administrator to the party; or
- (f) the entry by a party into any compromise or arrangement with creditors;

Law means any law, including legislation, ordinances, regulations, by-laws and other subordinate legislation, the common law and equity;

Loss means all losses, liabilities or damages, and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties);

Products means any products supplied by the Contractor to the Client;

Services means any services and Products which the Contractor provides to the Client and includes the following:

- (a) supply of fire equipment;
- (b) servicing, testing and installing fire equipment;
- (c) supply of doors, fire doors and fire door frames;
- (d) installing, servicing, maintaining, testing, certifying and rectifying doors, fire doors and fire door frames;
- (e) consulting services; and
- (f) any other services which the parties may agree on; and

Website means the Contractor's website at www.coastfiresafety.com.au, www.bundabergfiresafety.com.au, www.gympiefiresafety.com.au, www.sunshinecoastfiredoorsandframes.com.au and any additional or alternative websites adopted by the Contractor at any time.

2. INTERPRETATION

In this document, unless the context requires otherwise:

- (a) clause and subclause headings are for reference purposes only and are not to affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) a reference to a person includes any other entity recognised by Law including firms, companies and corporations and vice versa;
- (e) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this document includes its successors and permitted assigns;
- (g) any reference to any agreement or document includes that agreement or document as amended at any time;
- (h) the use of the word includes or including is not to be taken as limiting the meaning of the words preceding it;
- (i) the expression at any time includes reference to past, present and future time and performing any action from time to time;
- (j) all monetary amounts referred to in this Agreement are in Australian dollars (AUD);
- (k) any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- (l) a reference to an exhibit, annexure, attachment or schedule is a reference to the corresponding exhibit, annexure, attachment or schedule in this document;
- (m) a reference to a clause described, prefaced or qualified by the name, heading or caption of a clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment in this document means a cross reference to that clause, subclause, paragraph, schedule, item, annexure, exhibit or attachment;
- (n) when a thing is required to be done or money is required to be paid under this document on a day which is not a Business Day, the thing must be done and the money paid on the immediately preceding Business Day; and
- (o) a reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

3. ACCEPTANCE

- (a) All orders placed with the Contractor shall only be accepted subject to these Terms and Conditions.
- (b) By engaging the Contractor to provide the Services the Client has read, understood, accepted and agreed to be bound by these Terms and Conditions.
- (c) The Contractor reserves the right to change any of the Terms and Conditions at any time by notifying the Client and such amended Terms and Conditions shall apply after such notification.
- (d) By continuing to receive Services from the Contractor it shall be deemed that the Client agrees to be bound by such amended Terms and Conditions.

4. GENERAL OBLIGATION

The Contractor agrees to provide the Client with the Services, and the Client agrees to pay the Contractor the Fees, subject to clause 5.

5. FURTHER AGREEMENTS

The Contractor may, in its absolute discretion, require the Client to enter into the following further agreements with the Contractor prior to agreeing to provide the Client with the Services:

(a) a trade credit agreement; and/or

(b) a deed of guarantee, indemnity and charge.

6. RESPONSIBILITIES OF THE CONTRACTOR

(a) The Contractor will provide the Services.

(b) The Contractor will use reasonable endeavours to complete and perform the Services in accordance with industry standards.

7. RESPONSIBILITIES OF THE CLIENT

The Client will:

(a) co-operate with the Contractor as the Contractor reasonably requires;

(b) provide the information and documentation that the Contractor reasonably requires;

(c) ensure that the Client's staff and agents cooperate with and assist the Contractor;

(d) make available to the Contractor any such facilities as the Contractor reasonably requires;

(e) not charge for the Contractor's use of the facilities made available by the Client;

(f) pay the Fees when due; and

(g) otherwise act in accordance with this Agreement.

8. FEES AND PAYMENT

(a) For the Services provided to the Client the Contractor will charge the Fees.

(b) Unless otherwise altered by the Contractor and advised verbally to the Client, the Fees are based on the Services being carried out from 08:30 to 17:00 on Business Days.

(c) Unless otherwise agreed in writing, the Fees:

(i) are based on having continuous, uninterrupted, and unhindered access to the required people, equipment, facilities, utilities, and areas where the Services are to be carried out;

(ii) are based on current workplace agreements;

(iii) do not cover extraneous work, including but not limited to patching/painting, carpet lifting or refitting, building work or decoration and emergency service call-outs; and

(iv) do not cover any costs associated with the discovery of unforeseen conditions or any other event beyond the reasonable control of the Contractor.

(d) Any additional costs arising from a change in the assumptions set out in clause 8(b) and clause 8(c) will be treated as a variation under clause 9.

(e) The Fees are exclusive of GST or other applicable duties as required by Law. Any GST and duties required by Law will be charged to the Client in addition to the Fees Payable.

(f) The Contractor may, at its absolute discretion, invoice the Client for a non-refundable deposit prior to commencing the provision of the Services.

(g) The Contractor will invoice the Client for the Fees either at the completion of the Services or periodically throughout the provision of the Services and either in arrears or in advance, at the absolute discretion of the Contractor.

(h) The Client must pay the Contractor any invoiced amount within seven days of the invoice being issued unless otherwise agreed in writing by the Contractor.

(i) The Client will reimburse the Contractor from time to time for any reasonable and necessary additional expenses incurred by the Contractor in connection with providing the Services.

(j) The Client agrees that pre-approval for any additional expenses, pertaining to emergency repairs, is not required to be obtained by the Contractor.

(k) If any payment by the Client under this Agreement is overdue, the Contractor may at its absolute discretion (without limiting its rights):

(i) charge a 15% late fee on the overdue amount; and

(ii) engage the services of a debt collection agency for the purposes of collecting any outstanding payments.

(l) The Contractor may, at its absolute discretion, suspend performance of the Services until payment in full of all amounts due.

(m) All debt collection and legal fees incurred by the Contractor in connection with seeking to recover any overdue payment of the Client will be payable by the Client in addition to the debt.

(n) The Contractor will not be liable for any Loss or Claim that may arise out of the Contractor's suspension of performance due to the Client's non-payment or late payment.

(o) The Client acknowledges that the Fees as offered by the Contractor are partially based on the consideration that the Fees will cover the Contractor's ongoing cost to provide the Services. In light of this, the Client agrees that any Fees that are already paid to the Contractor pursuant to this Agreement will not be refundable.

9. VARIATIONS

(a) The Contractor reserves the right to change the Fees:

(i) if a variation to the Products which are to be supplied is requested; or

(ii) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or

(iii) if during the course of the Services, the Products are not or cease to be available from the Contractor's third party suppliers, then the Contractor reserves the right to provide alternative Products; or

(iv) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including but not limited to, poor weather conditions, limitations to accessing the site, availability of machinery including unloading or lifting equipment, safety considerations, design change, or prerequisite work by any third party not being completed, etc.) which are only discovered on commencement of the Services; or

(v) in the event of increases to the Contractor in the cost of labour or materials.

(b) The Client shall pay for any variation as follows:

(i) if the Contractor has estimated an amount for such variation, the amount estimated; or

(ii) if the Contractor has not given any estimate, an amount calculated for the variation by the Contractor in accordance with the Contractor's standard rates for such Services applicable at that time; and

(iii) the Contractor is entitled to charge the Customer for any design, management, overhead and profit for each variation carried out.

10. PROPERTY

Notwithstanding delivery of the Products or their installation, property in any given Products shall remain with the Contractor until the Client has paid and discharged any and all other indebtedness to the Contractor on any account whatsoever, including all applicable GST and other taxes, levies and duties.

11. RISK

(a) Risk of damage to or loss of the Products passes to the Client on delivery and the Client must insure the Products on or before delivery.

(b) If any of the Products are damaged or destroyed following delivery but prior to ownership passing to the Client, the Contractor shall be entitled to receive all insurance proceeds payable for the Products. The production of this Agreement is sufficient evidence of the Contractor's rights to receive the insurance proceeds without the need for any person dealing with the Contractor to make further enquiries.

(c) If the Client requests the Contractor to leave any Products outside the Contractor's premises for collection or to deliver the Products to an unattended location, then such Products shall be left at the Client's sole risk.

(d) Where the Contractor is required to install the Products the Client warrants that the structure of the premises or equipment in or upon which these Products are to be installed or erected is sound and will sustain the installation and work incidental thereto and the Contractor shall not be liable for any Claim or Loss howsoever caused or arising in connection with the installation and work incidental thereto.

(e) In the event that the Contractor discovers asbestos/hazardous materials whilst undertaking any Services, the Contractor shall immediately advise the Client of the same and shall be entitled to suspend the Services pending a risk assessment in relation to those materials. The Client shall be liable for all additional costs (howsoever arising) incurred by the Contractor as a result of the discovery of asbestos/hazardous materials and/or any suspension of Services in relation thereto.

(f) The Contractor shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Client. The Client acknowledges and agrees that in the event that any of this information provided by the Client is inaccurate, the Contractor accepts no responsibility for any Loss however resulting from these inaccurate plans, specifications or other information.

- (g) The Client also acknowledges and accepts that:
- (i) all descriptive specifications, illustrations, drawings, data, dimensions, ratings and weights stated in the Contractor's or the manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Client shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the agreement between the parties;
 - (ii) while the Contractor may have provided information or figures to the Client regarding the performance of the Products, the Client acknowledges that the Contractor has given these in good faith and that they are only industry prescribed estimates that may be subject to change;
 - (iii) colours of items displayed on the Website may not reflect the true and actual colour of such items as this may be affected by external influences such as the quality of images supplied to the Contractor for use, or the quality, age or settings on the Client's monitor. If colour is a major factor in the Client's decision making the Contractor recommends the Client contacts the Contractor before purchase;
 - (iv) brands of items displayed on the Website may not reflect brands of such items supplied as brands are subject to change due to factors including availability, lack of supply or change of suppliers;
 - (v) the Contractor is only responsible for parts that are replaced by the Contractor and that in the event that other parts/materials subsequently fail, the Client agrees to indemnify the Contractor against any loss or damage to the materials;
 - (vi) in the event that the electrical wiring is required to be re-positioned at the request of any third party contracted by the Client then the Client agrees to notify the Contractor immediately upon any proposed changes. The Client agrees to indemnify the Contractor against any additional costs incurred with such a relocation of electrical wiring. All such variances shall be invoiced in accordance with clause 9(b);
 - (vii) the Products may fade or change colour over time, expand, contract or distort as a result of exposure generally as well as to salt air and salt water, excessive weather conditions such as flood and storm damage, heat, and cold temperatures, mark or stain if exposed to certain substances and be damaged or disfigured by impact or scratching;
 - (viii) the Contractor shall not be responsible or liable for any defect in other appliances or power points as a coincidence of the Contractor installing the Products;
 - (ix) where the Contractor has performed temporary repairs that the Contractor offers no guarantee against the reoccurrence of the initial fault, or any further damage caused, the Contractor will immediately advise the Client of the fault and shall provide the Client with an estimate for the full repair; and
 - (x) it is the Client's responsibility to insure any Products partly or completely installed at their premises against theft or damage.

- (h) The Client accepts that electronic systems, smoke, heat and like detectors installed to/at its premises:
- (i) are for monitoring and detection purposes and should not be seen as a life saving device;
 - (ii) does not guarantee its premises will be free from malicious damage or losses caused by attack, break and/or enter; and
 - (iii) does not guarantee that its premises will be free from any water damage, damage or loss caused by fire, smoke, insects, dust or other unforeseen/unpreventable damage or faults beyond the Contractor's control, as a result of said equipment being used either in a correct manner or not.

12. DELAYS

- (a) The Client acknowledges and accepts that estimated timeframes provided by the Contractor for the provision of Services are estimates only and may be subject to change by the Contractor at any time for any reason, either in writing or verbally, in which case the Client agrees that the Contractor will be entitled to an extension of time to any completion date or other delivery date.
- (b) The Client agrees that the Contractor will be entitled to associated additional costs where the Contractor has been delayed as a result of:
 - (i) a breach of this Agreement by the Client;
 - (ii) an act or omission by the Client or the Client's personnel;
 - (iii) delays caused by the Client or the Client's personnel;

- (iv) delays caused under clause 8(c)(i);
- (v) a variation under clause 9;
- (vi) a force majeure event under clause 21; and
- (vii) delays caused by the Contractor due to shortages of staff or sub-contractors for any reason.

13. RIGHT OF SUBSTITUTION

- (a) Except as otherwise provided in this Agreement, the Contractor may, at the Contractor's absolute discretion, engage a third party sub-contractor to perform some or all of the obligations of the Contractor under this Agreement and the Client will not hire or engage any third parties to assist with the provision of the Services.
- (b) In the event that the Contractor hires a sub-contractor:
 - (i) the Contractor will pay the sub-contractor for its services and the Fees will remain payable by the Client to the Contractor; and
 - (ii) for the purposes of the indemnification clause of this Agreement, the sub-contractor is an agent of the Contractor.

14. AUTONOMY

Except as otherwise provided in this Agreement, the Contractor will have full control over working time, methods, and decision making in relation to provision of the Services in accordance with this Agreement. The Contractor will work autonomously and not at the direction of the Client, however the Contractor shall endeavour to accommodate the Client's program to the best of the Contractor's scheduling ability.

15. EQUIPMENT

Except as otherwise provided in this Agreement, the Contractor will provide at the Contractor's own expense, any and all tools, machinery, equipment, workwear and any other items or parts necessary to deliver the Services in accordance with this Agreement.

16. NO WARRANTY

- (a) The Client acknowledges that the Contractor does not manufacture the Products.
- (b) The Contractor provides no warranty in respect of Products supplied to the Customer.
- (c) The Client must contact the manufacturer directly regarding warranties of the Products and the Contractor has no responsibility in this regard.

17. CONSUMER GUARANTEES

- (a) Nothing in this Agreement is intended to have the effect of contracting out of any applicable provisions of the *Fair Trading Act 1999 (Qld)* (including any substitute to the Act or re-enactment thereof), except to the extent permitted by the Act where applicable.
- (b) Where the Client purchases Products and/or Services as a consumer this Agreement shall be subject to any laws or legislation governing the rights of consumers and shall not affect the consumer's statutory rights.
- (c) The Contractor's liability arising out of any one incident whether or not there has been any declaration of value of the Products, for breach of warranty implied into this Agreement by the *Commonwealth Competition and Consumer Act 2010 (Cth)* or howsoever arising, is limited to any of the following as determined by the Contractor:
 - (i) rectifying the Products and/or Services; or
 - (ii) providing the Products and/or Services again; or
 - (iii) paying for the Products and/or Services to be provided again.
- (d) If the Contractor is required to rectify, re-provide, or pay the cost of re-providing the Products and/or Services under clause 17(c) or the *Commonwealth Competition and Consumer Act 2010 (Cth)*, but is unable to do so, then the Contractor may refund any money the Client has paid for the Services but only to the extent that such refund shall take into account the value of Services which have been provided to the Client which were not defective.

18. INTELLECTUAL PROPERTY

- (a) Where the Contractor has designed, drawn or developed Products for the Client, then the copyright in any designs and drawings and documents shall remain the Contractor's property. Under no circumstances may such designs, drawings and documents be used, copied or reproduced without the Contractor's express written approval.
- (b) The Client warrants that all designs, specifications or instructions given to the Contractor will not cause the Contractor to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify the Contractor against any action taken by a third party against the Contractor in respect of any such infringement.

- (c) The Client agrees that the Contractor may (at no cost) use for the purposes of marketing and business or entry into any competition, any documents, designs, drawings or Products which the Contractor has created for the Client.

19. CONFIDENTIAL INFORMATION

- (a) The parties will only use the Confidential Information for the purpose of performing the Services or providing updates to the Client on administrative matters, such as changes to business hours, closures, bank accounts, etc.
- (b) The parties will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the parties have obtained, except:
- (i) as authorised by the other party;
 - (ii) as required by a change in ownership of one of the parties; or
 - (iii) as required by Law.
- (c) The parties will not use or attempt to use any Confidential Information in any manner which may prejudice the confidentiality of the Confidential Information or may injure or cause loss to the other party.
- (d) Each party must immediately notify the other party of any actual, threatened or suspected unauthorised disclosure of any Confidential Information.
- (e) Clause 19(a) to clause 19(d) will not apply to any information that:
- (i) was in the public domain at the date the information was provided to the recipient, or subsequently enters the public domain through no fault of the recipient;
 - (ii) was in the possession of the recipient prior to receiving it from the disclosing party, or subsequently came into the recipient's possession from a third party, without any obligation of confidentiality and without any breach of an obligation of confidence; or
 - (iii) the recipient is obliged by applicable Law or the rules of the Australian Stock Exchange to disclose, provided that it has first advised the disclosing party of this obligation, has allowed the disclosing party reasonable time to avoid the disclosure having to be made, and has given the disclosing party such assistance (at the disclosing party's cost) as the disclosing party reasonably requests in doing so.
- (f) Each party acknowledges that a breach by that party of the restrictions in this clause 19 may cause the other party to suffer loss for which damages may not be adequate compensation and may be difficult to ascertain. Accordingly, the parties each agree that the other party is entitled to seek to restrain, by injunction or any similar remedy, any conduct, actual or threatened, which is in breach of this clause 19.
- (g) The obligations accepted by the parties under this clause 19 survive the termination or expiry of this Agreement.

20. TERMINATION

- (a) The Contractor may terminate this Agreement immediately by written notice to the Client.
- (b) A party may terminate this Agreement immediately by written notice to the other party if an Insolvency Event occurs in respect of that other party.
- (c) The Contractor may terminate this Agreement immediately by written notice to the Client if the Client breaches a material term of this Agreement and:
- (i) the breach is not remediable; or
 - (ii) the breach is remediable but has not been remedied within 14 days after the Contractor has provided notice to the Client requesting it to remedy the breach.
- (d) Notwithstanding any provision of this Agreement to the contrary, the Contractor may terminate this Agreement immediately by written notice to the Client if outstanding payments are owed by the Client for more than seven days.
- (e) If there is any actual or proposed change in control of the Client that results or would result in a direct competitor of the Contractor directly or indirectly owning or controlling 50% or more of the Client, the Contractor may terminate this Agreement immediately upon written notice to the Client.
- (f) If the Contractor terminates in accordance with clause 20(c) or clause 20(d), the Client must pay the Contractor for:
- (i) Services carried out prior to the date of termination;
 - (ii) the cost (including freight and storage charges) of Products ordered by the Contractor for the Services; and
 - (iii) the cost of removing from the site all labour, equipment, appliances and other things in connection with the Services.

- (g) Termination of this Agreement will not prejudice or affect any of the Contractor's rights or remedies against the Client for an earlier default by the Client.

21. FORCE MAJEURE

- (a) Neither party has any liability under or will be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that party.
- (b) The Contractor has no liability under nor will be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from the specific circumstances of manufacturer delays in the supply of Products or labour shortages.
- (c) The party affected by such circumstances under this clause 21 must promptly notify the other party verbally or in writing when such circumstances cause a delay or failure in performance and when they cease to do so.

22. REPRESENTATIONS AND WARRANTIES

Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

23. RELATIONSHIP BETWEEN THE PARTIES

The relationship between the Client and the Contractor is that of a principal and an independent contractor. Nothing in this Agreement constitutes the relationship of partnership or employer and employee between the Client and the Contractor.

24. ERRORS AND OMISSIONS

- (a) Any advice, recommendation, information, assistance or service provided by the Contractor in relation to the Products and/or Services supplied is given in good faith, is based on the Contractor's own knowledge and experience and shall be accepted without liability on the Contractor's part of the and it shall be the Client's responsibility to confirm the accuracy and reliability of the same in light of the use to which the Client make or intends to make of the Products and/or Services.
- (b) The Client acknowledges and accepts that the Contractor shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (i) resulting from an inadvertent mistake made by the Contractor in the formation and/or administration of this Agreement; and/or
 - (ii) contained in/omitted from any literature (hard copy and/or electronic) supplied by the Contractor in respect of the Services.
- (c) In the event such an error and/or omission occurs in accordance with clause 24(b), and is not attributable to the negligence and/or wilful misconduct by the Contractor, the Client shall not be entitled to treat this Agreement as repudiated nor render it invalid.

25. ON-LINE ORDERING

Display on the Website does not guarantee the availability of any particular Product(s) and/or Services therefore all orders placed through the Website shall be subject to confirmation of acceptance by the Contractor and confirmation of estimated timeframes by the Contractor.

26. COMPLIANCE WITH LAWS

- (a) Both parties shall comply with the Law that may be applicable to the Services and agree that the Services will be provided in accordance with any current relevant Australian Standards and/or codes applicable.
- (b) The Client shall obtain (at its own expense) all licenses and approvals that may be required for the Services.
- (c) If during the course of installation when the Services are being conducted within and around switchboards that if the same is found defective or deemed to be unsafe by the Contractor, then the Contractor shall notify the Client immediately. The power, if isolated, will not be re-energised until such time as the existing condition has been rectified and made safe in accordance to the Electrical Safety Regulations. The Client accepts and agrees that any costs associated with the rectification Services including any Products and labour shall be to the Client's account.

27. INDEMNIFICATION

Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable Law, the Client agrees to indemnify and hold harmless the Contractor, and its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns against any and all Claim, Loss and costs of any kind or amount whatsoever that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

28. PERSONAL PROPERTY SECURITIES ACT 2009 ("PPSA")

- (a) In this clause 28 financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- (b) The Client acknowledges and agrees that this Agreement constitutes a security agreement for the purposes of the PPSA and

creates a security interest in all Products and/or collateral (account) – being a monetary obligation of the Client to the Contractor for Services – that have previously been supplied and that will be supplied in the future by the Contractor to the Client.

- (c) The Client undertakes to:
- (i) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Contractor may reasonably require to:
 - i. register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - ii. register any other document required to be registered by the PPSA; or
 - iii. correct a defect in a statement referred to in clause 28(c)(i) and clause 28(c)(i)ii;
 - (ii) indemnify, and upon demand reimburse, the Contractor for all expenses incurred in registering a financing statement or a financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Products charged thereby;
 - (iii) not register a financing change statement in respect of a security interest without the Contractor's prior written consent;
 - (iv) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Products and/or collateral (account) in favour of a third party without the Contractor's prior written consent;
 - (v) immediately advise the Contractor of any material change in its business practices of selling the Products which would result in a change in the nature of proceeds derived from such sales.
- (d) Both parties agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by this Agreement.
- (e) The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- (f) The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- (g) Unless otherwise agreed to in writing by the Contractor, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- (h) The Client must unconditionally ratify any actions taken by the Contractor under clause 28(c) to clause 28(e).
- (i) Subject to any express provisions to the contrary (including those contained in this clause 28), nothing in this Agreement is intended to have the effect of contracting out of any of the provisions of the PPSA.

29. SECURITY AND CHARGE

- (a) In consideration of the Contractor agreeing to supply the Products, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of their obligations under this Agreement (including, but not limited to, the payment of any money).
- (b) The Client agrees and acknowledges that the Contractor is entitled to lodge a caveat over any real property in the Client's name in order to protect the Contractor's interest in the said real property as charge in respect of any charge created as a result of clause 29(a) or otherwise at Law.
- (c) The Client indemnifies the Contractor from and against all the Contractor's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising the Contractor's rights under this clause 29.
- (d) The Client irrevocably appoints the Contractor and each of the Contractor's directors as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 29 including, but not limited to, signing any document on the Client's behalf.

30. NOTICES

- (a) Except as otherwise provided in this Agreement, any notice, demand, consent, approval or communication under this Agreement must be:
 - (i) in writing, in English and signed by a person duly authorised by the sender; and
 - (ii) delivered by hand, registered mail or email to the recipient's address or email address as specified on the Client's order form or any other document issued by the Client (for the Client) or the Contractor's Website (for the

Contractor) or as varied by any notice given by the recipient to the sender.

- (b) A party to this Agreement agrees to notify the other party pursuant to this clause 30 regarding any change in their address or email address.

31. ASSIGNMENT

- (a) The Contractor may assign or otherwise transfer its obligations under this Agreement without the consent of the Client.
- (b) The Client must not assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Contractor.

32. INCONSISTENCY

Except as otherwise expressly agreed upon in writing between a duly authorised officer of the Contractor and the Client, these Terms and Conditions shall apply notwithstanding any provisions to the contrary which may appear on any order form or other document issued by any Client. In the event of any inconsistency between these Terms and Conditions and any other such document issued by the Client, these Terms and Conditions will prevail to the extent of the inconsistency and override any other document issued by the Client.

33. ENDUREMENT

This Agreement will endure to the benefit of and be binding on the parties and their respective heirs, executors, administrators, successors and assignees.

34. GOVERNING LAW

This Agreement is governed by, to be performed under and to be construed in accordance with the laws of the State of Queensland and the parties irrevocably agree to submit to the non-exclusive jurisdiction of the courts having jurisdiction in Queensland (including the Federal Court of Australia).

35. SEVERABILITY

If any provision or any part of a provision of this Agreement is held invalid, unenforceable or illegal for any reason, this Agreement will remain otherwise in full force apart from such provision or such part of a provision which shall be deleted.

36. WAIVER

Failure or neglect by the Contractor to enforce at any time any provision of this Agreement, including any breach, default, delay or omission, is not to be construed or deemed to be a waiver of the Contractor's rights under this Agreement.

37. AMENDMENT

Except as otherwise provided in this Agreement, an amendment or variation to this Agreement is not effective unless it is in writing and signed by all the parties.