



TERMS & CONDITIONS CONTRACTOR SERVICES

EV Electrical Services PTY. LTD.

EC12036

ACN: 613 823 948

ABN: 73 871 404 784

1. PARTIES:

The Contractor: EV Electrical Services Pty Ltd (ACN: 613 823 948) as trustee for the McGarry Family Trust (ABN: 73 871 404 784) trading as EV ELECTRICAL SERVICES PTY. LTD. of 7 Graham Street SPEARWOOD WA 6163.

The Customer: _____

The Premises: _____

2. DEFINITIONS

2.1. The Contractor is: EV Electrical Services Pty Ltd (ACN: 613 823 948) as trustee for the McGarry Family Trust (ABN: 73 871 404 784) trading as EV ELECTRICAL SERVICES PTY. LTD. of 7 Graham Street SPEARWOOD WA 6163.

2.2. The Customer is the party or any person acting on behalf of and with the authority of the Customer that the Order is provided for.

2.3. The Guarantor is the person(s), or entity, who agrees to be liable for the debts of the Customer.

2.4. The Order shall be defined as any request for the provision of Goods and/or Services by the Customer with the Contractor which has been accepted by the Contractor.

2.5. The Goods are the products and/or components provided by the Contractor.

2.6. The Services are all the delivery and/or supply of Goods, installation and repairs done by the Contractor, including any advice or recommendations.

2.7. The Premises are the land or land and buildings where the Services are to be carried out.

2.8. The Price is the amount invoiced for Goods supplied and/or Services provided.

2.9. Indirect, Special or Consequential loss or damage includes i) any loss of income profit or business; ii) any loss of good will or reputation; iii) any loss of value of intellectual property.

2.10. Invoices include invoices for Goods supplied or for Services provide, or both.

2.11. Major failure is Goods and/or Services that are unsafe and/or substantially unfit for normal purpose and cannot reasonably be made fit within a reasonable time.

2.12. Force Majeure means neither the Contractor nor the Customer shall be held liable for any breach of these terms where the breach arises from an act of God, war, natural disaster, terrorism or any other event beyond the reasonable control of either party.

3. GENERAL

3.1. These Terms and Conditions together with the Contractor's written or verbal quotation form this Agreement.

3.2. Any Order requested by the Customer is deemed to be an Order incorporating these Terms and Conditions and may not be varied unless expressly agreed to by the Contractor in writing. In the event that an inconsistency exists and/or arises between these terms and the Order it is acknowledged between the parties that these Terms and Conditions will prevail.

3.3. No subsequent correspondence or document or discussion shall modify or otherwise vary these Terms and Conditions unless such variation is in writing and signed by the Contractor.

3.4. The Terms and Conditions are binding on the Customer, his heirs, assignees, executors, trustees and where applicable, any liquidator, receiver or administrator.

3.5. In these Terms and Conditions, the singular shall include the plural, the masculine shall include feminine and neuter and words importing persons shall apply to corporations.

3.6. Where more than one Customer completes this Agreement each shall be liable jointly and severally.

3.7. If any provision of these Terms and Conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired and the offending provision shall be deemed as severed from these Terms and Conditions.

3.8. The Contractor may license or sub-contract all or any part of its rights and obligations without the Customer's consent but the Contractor acknowledges that it remains at all times liable to the Customer.

3.9. The failure by the Contractor to enforce any provision of these Terms and Conditions shall not be treated as a waiver of that provision, nor shall it affect the Contractor's right to subsequently enforce that provision.

3.10. The Customer acknowledges that the Contractor may detail these Terms and Conditions on its website. In this event, the Terms and Conditions on the Supplier's website shall apply to any future dealings as between the parties and the Customer is deemed to have notice of any such Terms and Conditions and/or amendments.

3.11. The Customer covenants that he is either the owner of the Premises or is acting with the authority of the Owner.

3.12. In the event the Customer is acting with the authority of the Owner, the Customer covenants the Owner is aware and agrees to all work carried out on the Premises and the status of the Order with the Contractor.

4. PLACEMENT OF ORDERS

4.1 Orders for Goods and/or Services placed by the Customer with the Contractor will be considered valid when placing the Order verbally and/or in writing.

4.2 Any Quotation issued by the Contractor shall expire thirty (30) days after the date of issuing. Contractor may provide Quotations to the Customer by verbal communication and/or in writing.

4.3 All prices are based on taxes and statutory charges current at the time of the Quotation. Should these vary during the period from the date of the Quotation to the date of the invoice, the difference will become the responsibility of the Customer and the Customer will be invoiced for the extra charge by the Contractor.

5. PRICE

- 5.1. At the Contractor's sole discretion the Price shall be either:
- 5.1.1. As detailed on invoices provided by the Contractor to the Customer in respect of Goods and/or Services supplied; or
 - 5.1.2. The Contractor's quoted Price as for the Order (subject to clause 5.2).
- 5.2. The Contractor reserves the right to change the Price in the event of a variation to the Contractor's Order, and notice will be provided in writing by the Contractor within a reasonable time.

6. DEPOSIT

- 6.1. For any Orders estimated to have a Price over two thousand dollars (\$2000), a thirty percent (30%) Deposit is required seven (7) days before the Contractor commences completing the Order.

7. SUPPLY AND DELIVERY OF GOODS

- 7.1. The Contractor reserves their right to:
- 7.1.1. Decline requests for any Goods requested by the Customer.
 - 7.1.2. Cancel or postpone the delivery of Goods at their discretion.
- 7.2. Delivery of the Goods shall be deemed to be complete when the Goods are collected by the Customer or are delivered to the Customer or to the carrier as nominated by the Contractor and/or Customer.
- 7.3. Unless specified by the Contractor to the contrary in the Order, the Contractor does not warrant that it will be capable of providing the Goods at specific times requested by the Customer during the term of this Agreement.
- 7.4. Subject to otherwise complying with its obligations under this Agreement, the Contractor shall exercise its independent discretion as to its most appropriate and effective manner of providing the Goods and of satisfying the Customer's expectations of those Goods.
- 7.5. In the discharge of its duties, the Contractor shall comply with all reasonable directions of the Customer as to the nature and scope of the Goods to be provided.
- 7.6. Nothing in the above clause shall effect the Contractor's right to exercise its own judgment and to utilise its skills as it considers most appropriate in order to achieve compliance with the said resolutions, regulations and directions or otherwise with its obligations under this Agreement.
- 7.7. The Contractor may agree to provide, on request from the Customer, additional Goods not included or specifically excluded in the Quotation/Order. In this event, the Contractor shall be entitled to make an additional charge. Additional Goods includes, but is not limited to, alterations, amendments, and any additional visits by the Contractor after provision of the Goods at the request of the Customer.

8. PROVISION OF SERVICES

- 8.1. The Contractor reserves their right to:

8.1.1. Decline requests for any Services requested by the Customer.

8.1.2. Cancel or postpone appointments at their discretion.

8.2. Unless specified by the Contractor to the contrary in the Order, the Contractor does not warrant that it will be capable of providing the Services at specific times requested by the Customer during the term of this Agreement.

8.3. Subject to otherwise complying with its obligations under this Agreement, the Contractor shall exercise its independent discretion as to its most appropriate and effective manner of providing the Services and of satisfying the Customer's expectations of those Services.

8.4. In the discharge of its duties, the Contractor shall comply with all reasonable directions of the Customer as to the nature and scope of the Services provided.

8.5. Nothing in the above clause shall effect the Contractor's right to exercise its own judgment and to utilise its skills as it considers most appropriate in order to achieve compliance with the said resolutions, regulations and directions or otherwise with its obligations under this Agreement.

8.6. The Contractor may agree to provide, on request from the Customer, additional Services not included or specifically excluded in the Quotation/Order. In this event, the Contractor shall be entitled to make an additional charge. Additional Services includes, but is not limited to, alterations, amendments, and any additional visits by the Contractor after provision of the Goods and/or Services at the request of the Customer.

8.7. The Customer is responsible for ensuring that the Goods are secured at the Premises and warrants to be responsible for any loss, damage or theft of the Goods delivered by the Contractor to the Premises.

9. PAYMENT POLICY

9.1. Any reference to Customer shall include all Customers, unless it refers to a specific group of Customers.

9.2. The Contractor will issue a tax invoice for the service setting out the service performed, including any variation, the date the service was performed and by whom. The tax invoice will also separately identify all expenses and any GST payable. This tax invoice will include the final price for the services performed and any goods provided, this price may vary from the quoted price if authorised variations have been agreed to during the execution of the services.

9.3. The Customer must make full payment to the Supplier within seven (7) days from the date of issue of invoice ("Default Date").

9.4. Payment of the Contractor's tax invoice must be made in any of the following manner:
Electronic transfer to the Contractor's bank account, Cash or Cheque.

9.5. Where the Customer fails to pay any tax invoice on or before the due date, the Customer agrees that the Contractor will add a five percent (5%) of the total invoiced amount, excluding GST, as a 'Late Fee' per calendar month, until the invoice is paid in full. The Customer will be liable to pay an accrued late fee in addition to the outstanding amount.

9.6. If the Contractor does not receive the Outstanding Balance for the Price on or before the Default Date, the Contractor may, without prejudice to any other remedy it may have, forward the Customer's outstanding account to a debt collection agency for further action. The Customer acknowledges and agrees that:

9.6.1. After the Default Date, the Outstanding Balance shall include, but not limited to, all applicable fees and charges under this Agreement;

9.6.2. In the event of the Customer being in default of the obligation to pay and the overdue account is then referred to a debt collection and/or law firm for collection, the commission payable where the collection agency charges commission on a contingency basis shall be calculated as if the agency has achieved one hundred percent recovery and shall be added to the debt and the legal costs, whether incurred directly or by the agency shall be calculated on the indemnity basis and added to and form part of the debt and the total shall be treated as a liquidated demand.

10. GOODS AND SERVICES TAX

10.1. GST refers to Goods and Services tax under the Goods and Services Act 1999 ("GST Act") and terms used herein have the meanings contained within the GST Act.

10.2. It is agreed between the Customer and the Contractor that the consideration for the Contractor expressed in this Agreement is exclusive of the Contractor's liability of GST.

10.3. The Contractor shall deliver to the Customer a Tax Invoice for the supply in a form which complies with the GST Act and Regulations.

11. DISHONOUR OF CHEQUE

11.1. If any cheque issued by the Customer or by any third party in payment of the Price is dishonoured:

11.1.1. The Contractor may refuse to supply any further Goods and/or Services until satisfactory payment is received in full, including bank fees and charges;

11.1.2. The Supplier is entitled to treat the dishonour of the Customer's cheque as a repudiation of this Agreement and to elect between terminating this Agreement or affirming this Agreement, and in each case claiming and recovering compensation for loss or damage suffered from the Customer.

11.1.3. The Customer may be liable for a dishonoured cheque fee up to \$40.00.

13. RISK AND LIABILITY

13.1. The Customer will ensure when placing Orders that there is sufficient information to enable the Contractor to execute the Order.

13.2. The Contractor takes no responsibility if the specifications are wrong or inaccurate and the Customer will be liable in that event for the expenses incurred by the Contractor and the extra services required by the Contractor for any work required to rectify the Order.

13.3. The Customer is responsible for ensuring that the Contractor is made aware of any special requirements pertaining to the Order and the Contractor relies upon the integrity of the information supplied to it.

13.4. The Contractor takes no responsibility and will not be liable for any damages or costs resulting in the Goods being faulty or limited in performance as a consequence of insufficient information provided by the Customer.

13.5. The Contractor takes no responsibility for representations made in relation to the Goods or any delay in the delivery of the Goods made by a third party or third party manufacturer/supplier.

13.6. The Customer acknowledges that the Contractor shall not be liable for and the Customer releases the Supplier from:

13.6.1. Any claims in respect of faulty or defective design of any Goods supplied.

13.6.2. Any loss incurred as a result of delay, or failure to provide the Goods or to observe any of these conditions due to an event of Force Majeure, being any cause or circumstance beyond the Contractor's reasonable control.

13.7. The Customer accepts risk in relation to the Goods when the Goods pass to his care and/or control.

14. OCCUPATIONAL HEALTH AND SAFETY/WORKPLACE HEALTH AND SAFETY

14.1. The Customer will ensure that, if the service is to be performed on the Customer's property, the Customer is authorised to occupy those premises and obtain the service.

14.2. The Customer will ensure that if the service is to be performed on the Customer's property, that at all times the property is safe and that all facilities provided by the Customer for the purposes of enabling the service to be performed are also safe.

14.3. The Customer will ensure that the Contractor has free and unimpeded access to the place in which the services are to take place and that the Customer will do all things to ensure that the Contractor is not delayed by matters within the control of the Customer.

14.4. The Customer accepts that the Contractor has the right to impose stand down charges and recover additional costs incurred where work is delayed by reason not in the control of the Contractor and where the Contractor is unable to reasonably reschedule services

14.5. The Contractor will ensure that at all times in performing the service it uses safe and proper procedures and practices and that all its employees are properly trained and licensed when required, and observe all proper safety practices. Where protective equipment, materials or clothing are required these will be provided by the Contractor and the Contractor will ensure that these are used at all relevant times.

14.5. The Contractor will at all times have current Public & Property Liability Indemnity insurance and will, on request with prior notice, provide evidence to the Customer of its currency.

15. WARRANTY

15.1. The Contractor warrants that if any defect in any Service provided by the Contractor becomes apparent and is reported to the Contractor within ninety (90) days of the provision of the Services (time being of the essence) then the Contractor will (at the Contractor's sole discretion) remedy the defective Service.

15.2. If any Services provided by the Contractor are repaired, altered or overhauled by the Customer or caused to be repaired, altered or overhauled by the Customer without the Contractor's consent, the warranty shall cease and the Contractor shall thereafter in no circumstances be liable under the terms of the warranty.

15.3. In respect of all claims the Contractor shall not be liable to compensate the Customer for any delay in replacing the defective Goods or remedying the defective Services or in properly assessing the Customer's claim. The Contractor will use its best endeavours to assist the Customer with its claim.

15.4. Where the Customer has complied with the conditions of warranty for defective Services, the Contractor's liability is limited to rectifying and/or remedying the defective Services.

16. RETENTION OF TITLE

16.1 While the risk in Goods shall pass on delivery and/or supply (including all risks associated with unloading), legal and equitable title in the Goods shall remain with the Contractor until full payment of all Goods supplied by the Contractor to the Customer is made. Pending such payment the Customer:

16.1.1 Shall hold the Goods as Bailee for the Contractor and shall return the Goods to the Contractor if so requested.

16.1.2 Agrees to hold the Goods at the Customer's own risk and is liable to compensate the Contractor for all loss or damage sustained to the Goods whilst they are in the Customer's possession.

16.1.3 The Contractor is authorised to enter the Premises or the premises where the Customer stores the Goods without liability for trespass or any resulting damage in retaking possession of the Goods until the accounts owed to the Contractor by the Customer are fully paid.

16.2 The Customer acknowledges that the Contractor may produce this clause to register its legal and equitable interest of the Goods as a secured party in accordance with the provisions of the Personal Property Securities Act 2009.

17. TERMINATION AND CANCELLATION

Cancellation by Contractor

17.1. The Contractor may cancel any Order to which these Terms and Conditions apply at any time by giving written notice to the Customer. On giving such notice the Contractor shall repay to the Customer any sums/deposits paid in respect of the Price. The Contractor shall not be liable for any loss or damage or consequential loss or damage whatever arising from such cancellation.

17.2. Without prejudice to the Contractor's other remedies at law, the Contractor shall be entitled to

cancel all or any part of any Order of the Customer which remains unfulfilled and all amounts owing to the Contractor shall, whether or not due for payment, become immediately payable in the event that:

- 17.2.1. Any money payable to the Contractor becomes overdue; or
- 17.2.2. The Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- 17.2.3. A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

Cancellation by Customer

17.3. Any Order can be cancelled by the Customer.

17.4. If the Customer places an Order with the Contractor and the Contractor places an Order with a third party Supplier to meet the Customer's request, the Customer shall be liable for the Price of the Goods ordered if the Customer cancels the Order and the Goods have already been dispatched.

18. SET-OFF

18.1. The Customer shall have no right of set-off in any suit, claim or proceeding brought by the Contractor against the Customer for default in payment.

18.2. The Customer acknowledges that the Contractor can produce this clause in bar of any proceeding for set-off.

19. INSURANCE

19.1. The Contractor is not liable to provide any insurance cover in relation to the provision of the Goods and Services. The Customer is responsible to effect whatever insurance cover he requires at his own expense.

20. ACCESS

20.1 The Customer shall, where relevant, ensure the Contractor has full and safe access to the Premises and any necessary essential services, resources, equipment, materials and information.

20.2 The Customer will be charged an additional fee if the Contractor's work is interfered with or no proper or safe access is provided to the Contractor.

20.3 The Contractor will not be held responsible for any delay due to inclement weather, failure of the Customer to provide required Items or changes requested to be made by the Customer and/or in any circumstances beyond the Contractor's reasonable control.

20.4 The Customer is responsible to obtain all necessary permits, excluding those only a WA Licenced Electrical Contractor can apply for, and to mark out the site at the Premises for the provision of the Services.

21. AGREED USE

21.1 The Customer acknowledges that the Customer may forfeit any rights if any, he may have

against the Contractor if:

21.1.1 The Goods are applied for any other use to which the Goods are not intended for and/or not in accordance with any applicable manual;

21.1.2 Any alteration to the Goods is carried out other than in accordance with intended alterations and/or the Goods are not repaired by an authorised repairer.

21.2 The Customer further acknowledges sole responsibility for any damage or injury to property or person caused by using the Goods in any way and shall indemnify in full the Contractor, its servants and/or agents in relation to all such claims.

22. JURISDICTION

22.1. This Agreement is deemed to be made in the State of Western Australia and all disputes hereunder shall be determined by the appropriate courts of Western Australia.

23. PRIVACY ACT 1988

23.1. The Customer and/or the Guarantor/s agrees;

23.1.1 For the Contractor to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and Guarantor/s in relation to credit provided by the Supplier.

23.1.2 That the Contractor may exchange information about the Customer and the Guarantor/s with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency.

23.1.3 The Customer consent to the Contractor being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

24. ENTIRE AGREEMENT

24.1. These Terms and Conditions as defined in Clause 3.1 constitute the whole Agreement made between the Customer and the Contractor.

24.2. This Agreement can only be amended in writing signed by each of the parties.

24.3. All prior discussions and negotiations are merged within this document and the Contractor expressly waives all prior representations made by him or on his behalf that are in conflict with any clauses in this document in any way.

24.4. Nothing in these Terms and Conditions is intended to have the effect of contravening any applicable provisions of the Competition and Consumer Act 2010 or the Fair Trading Acts in each of the States and Territories of Australia.