

## Industrial Electrics - TERMS AND CONDITIONS

### 1. Definitions

- 1.1 **"Contract"** means the terms and conditions contained herein, together with any Residential Quotation, invoice or other document or amendments expressed to be supplemental to this *Contract*.
- 1.2 **"Contractor"** shall mean Industrial Electrics Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of the Contractor.
- 1.3 **"Client"** means the person/s or any person acting on behalf of and with the authority of the *Client* requesting the *Contractor* to provide the *Services* as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one *Client*, is a reference to each *Client* jointly and severally; and
- (b) if the *Client* is a partnership, it shall bind each partner jointly and severally; and
- (c) if the *Client* is a part of a Trust, shall be bound in their capacity as a trustee; and
- (d) includes the *Client's* executors, administrators, successors and permitted assigns.
- 1.4 **"Services"** shall mean all *Services* (including consultation, manufacturing and/or installation services) undertaken by the *Contractor* and described in this *Contract* and includes any advice or recommendations.
- 1.5 **"Approval Services"** means the work necessary to apply for and obtain any building permits and any prescribed approvals for the *Services*.
- 1.6 **"Goods"** shall mean *Goods* required for completing the *Services*.
- 1.7 **"Intended Use"** means a building product and the use thereof, for which the building product is intended to be, or is reasonably likely to be, associated with a building.
- 1.8 **"Non-Conforming Building Product"** means building products that are regarded as *Non-Conforming* for an *Intended Use* if, when associated with a building:
- (a) the product is not, or will not be, safe; or
- (b) does not, or will not, comply with the relevant regulatory provisions; or
- (c) the product does not perform, or is not capable of performing, for the use to the standard it is represented to conform by or for a person in the chain of responsibility for the product.
- 1.9 **"CEC"** means the Clean Energy Council which is the governing body responsible for the monitoring and auditing of their Approved Solar Retailers "ASR" (including but not limited to, ensuring all consumers are supplied with all the relevant information in respect of the installation and performance of the *Goods* by their ASR, to allow the consumer to make an informed decision prior to purchase), thereby the *Contractor* undertakes to

meet the CEC Code of Conduct as a ASR with the supply and installation of the *Goods* and a copy of the CEC Code of Conduct is available upon request.

**"Personal Information"** means name, address, telephone number, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable).

**"Prime Cost Item"** shall mean an item that either has not been selected, or whose *Contract Price* is not known, at the time this *Contract* is entered into and for the cost of supply and delivery of which the *Contractor* must make a reasonable allowance in the *Contract*.

**"Provisional Sum"** shall mean an estimate of the cost of carrying out particular *Services* under this *Contract* for which the *Contractor*, after making all reasonable inquiries, cannot give a definite *Contract Price* at the time this *Contract* is entered into.

**"Defect"** means *Services* that is in breach of a warranty (refer clause 22), *Services* that are not of a standard or quality specified in this *Contract* or a failure to carry out and complete the *Services* in accordance with, and as required by, the plans and specifications covered in this *Contract Price*.

**"Building Act"** means the Home Building Contracts Act 1991 and the Home Building Contracts Regulations 1992 (QLD) or the Home Building Act 1989 (NSW) and shall include any amendments from time to time.

**"Worksite"** means the land (or that part of the land) that the *Contractor* reasonably needs to occupy in order to carry out and practically complete the *Services* required under this *Contract*.

**"Contract Price"** shall mean the *Contract Price* of the *Services* as agreed between the *Contractor* and the *Client*.

**"GST"** means Goods and Services Tax as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).

In this *Contract*, unless the context requires otherwise:

(a) **Plurals.** The singular shall include the plural and vice versa and words importing one gender shall include every gender and a reference to a person shall include any other legal entity of whatsoever kind and vice versa.

(b) **Business Days.** Business Days means Monday to Friday and shall not include Saturday or Sunday and/or a public holiday in the area of the *Worksite* or throughout the State of Queensland or New South Wales respectively (whether a whole or part of a day).

(c) **Statutory amendments.** A reference to a statute, ordinance, code or other law includes

regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction).

(d) **Parts of Contract.** References to this *Contract* including its clauses, schedules, and annexures.

(e) **Headings.** Headings shall be ignored in construing this document.

### 2. Acceptance/Cooling off Period

Any instructions received by the *Contractor* from the *Client* (including the acceptance of a Residential Quotation) for the supply of *Services* and/or the *Client's* acceptance of *Services* undertaken by the *Contractor* shall constitute acceptance of the terms and conditions contained herein subject to the *Client* being able to terminate this *Contract* (subject to clause 2.2) within ten (10) Business Days following the later of:

- (a) receipt from the *Contractor* of a signed copy of this *Contract*; or
- (b) receipt from the *Contractor* of a copy of the appropriate contract information sheet.

To terminate this *Contract* the *Client* must complete a withdrawal notice within the timeframe specified in clause 2.1 above, and:

- (a) give it to the *Contractor*; or
- (b) leave it at the *Contractor's* address in this *Contract*; or
- (c) serve it on the *Contractor* in accordance with any provision in the *Contract* providing for delivery of notices on the *Contractor* by the *Client*; and
- (d) pay to the *Contractor* the sum of one hundred dollars (\$100) plus any out-of-pocket expenses reasonably incurred by the *Contractor* before the date of withdrawal from this *Contract*, unless subject to clause 27.1.

Subject to clauses 2.1 and 2.2 upon acceptance of this *Contract* by the *Client*, this *Contract* is binding and can only be rescinded in accordance with this *Contract* or with the written consent of the *Contractor*.

The *Client* acknowledges and accepts that:

- (a) if the *Client's* solar system stops working due to grid voltage and the *Client* requests the *Contractor* to investigate and repair the system, all costs for the *Works* will be borne by the *Client*;
- (b) the *Contractor* will notify the *Client's* electricity distributor/retailer of the installation. The electricity distributor/retailer may then require the replacement of the *Client's* existing power meter the cost of which shall be the *Client's* responsibility and is not included in

any pricing specified under this *Contract*; and  
 (c) that the *Contractor* shall not be liable for any damage or loss including personal injury, death, (including but not limited to the failure of the *Client* to follow the *Contractor's* safety, operation or maintenance instructions, interference with controllers, 3.6 standing on the *Goods* or prior mitigating health conditions of the person) or property loss due to any electrical event beyond the *Contractor's* control.

2.5 None of the *Contractor's* agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of Industrial Electrics Pty Ltd, in writing nor is the *Contractor* bound by any such unauthorised statements. 3.7

2.6 The *Contractor* will permit the *Client* or any person authorised by the *Client* (either together or separately) to have reasonable access to the *Worksite* and to view any part of the *Services*. The *Client* agrees to allow sufficient notice of such required access and shall abide by any occupational health and safety laws that may apply to the *Worksite*; it shall be the *Client's* responsibility to discuss this with the *Contractor* before attending the 4.1 *Worksite* inspection.

2.7 If either party to this *Contract* is given notice by the other party to this *Contract* that they are in substantial breach of this *Contract* and does not rectify or attempt to substantially rectify any breach stated in the notice within ten (10) Business Days of receiving such notice then the party giving the notice may by giving a separate notice to the other party terminate this *Contract*.

### 3. Permits, Prescribed Approvals and Third Party Requirements

3.1 Unless otherwise stated in the *Contract Price* details, the *Contractor* must perform 4.2 the *Approval Services*.

3.2 If the *Contractor* are responsible for applying for a permit under the *Contract Price*, the *Client* must, as soon as practicable give instructions to the *Contractor* for the *Contractor* to apply for the necessary permit.

3.3 If the *Contractor* performs the *Approval Services*, any fee or associated charge (or both) incurred as a result of that *Approval Services* by the *Contractor* is included in the *Contract Price* unless expressly excluded.

3.4 Any *Approval Services* will be performed punctually and diligently so that the necessary permits and approvals can be obtained at the earliest practicable date.

3.5 Furthermore, the both parties agree:  
 (a) the *Contractor* will be responsible for applying for a permit and must secured its issue with sixty (60) calendar days from the date of being given notice or instructions by the *Client* under 3.2;

(b) the *Client* is required to give notice or instructions to the *Contractor* under 3.2 within sixty (60) calendar days from the date of this *Contract*;  
 (c) if the *Client* is responsible for applying for a permit the *Client* must secured its issue within sixty (60) calendar days from the date of this *Contract*;

Failure to comply with 3.5, either party may terminate this *Contract* by giving notice of termination. The terminating party must give the notice with ten (10) Business Days after the sixty (60) day period expires. If this *Contract* is terminated under this clause, the *Client* is liable to pay the *Contractor* reasonable 4.3 costs incurred in association with the *Approval Services* but no more.

Both parties acknowledge and agree:

(a) to comply with the National Construction Code and the *Building Act*, in respect of all workmanship 4.4 and building products to be supplied during the course of the *Services*; and  
 (b) that *Services* will be provided in accordance with any current relevant Australian/New Zealand Standards applicable.

### Variations

In the event that the *Client* requests a variation all such requests shall be made in writing. If the *Contractor* believes the variation will not require a variation to any permit and will not cause any delay, and will not add more than two percent (2%) to the *Contract*, then the *Contractor* may carry out the variation otherwise the *Contractor* will give the *Client* a written variation document detailing the *Services*, the amended *Contract Price*, the estimated time to undertake the variation, and the likely delay, if any, and require written acceptance by the *Client* of the variation before commencing *Services* on the variation.

In the event that the *Contractor* requests a 5.1 variation, the *Contractor* will, in writing;

(a) state the reason for the variation; and  
 (b) provide a full description of the variation, such as the following;  
 (i) if a variation to the *Services* 5.2 originally scheduled (including any applicable plans, *Client* and/or site requirements, or specifications) is requested; or  
 (ii) where the value of any Renewable Energy 5.3 Certificate's (REC's) and/or Smallscale Technology Certificates (STC's) upon which the sale *Contract Price* is dependant, changes as REC's and/or STC's are traded on the open market  
 (iii)  
 (iv) and the price varies from time to time; or

(v) where there is any change to any monies available to the *Client* from the Australian Federal Government's Renewable Energy Target Program (RET Program), (if applicable) or any other Commonwealth, State or Local Government rebates or incentives and

(c) state any effect the variation will have on the *Contract*, including but not limited to, the *Contract Price*, completion date and whether further permits or authorisations are required.

Other than for the events outlined in clause 4.4 the *Contractor* shall obtain written acceptance from the *Client* of any variation submitted by the *Contractor* before commencing *Services* on the variation.

In the event of:

(a) unforeseeable problems with the *Worksite* which are only revealed when undertaking the *Services* which the *Contractor* considers should be immediately rectified for the safe completion of the *Services*; or  
 (b) the *Contractor* being instructed to undertake extra *Services* by any person authorised by the *Building Act*;

then the *Contractor* may carry out any *Services* needed to fix any such problem/s or carry out any such instructions. Any such additional *Services* necessary are to be treated as a variation. However, if a *Contract Price* is not agreed upon with the *Client*, but the *Contractor* reasonably believes the variation will not require a variation to any permit and will not cause any delay and will not add more than two percent (2%) to the *Contract Price*, stated in this *Contract*, then the *Contractor* may carry out the variation.

### Contract Price and Payment

Time for payment for the *Services* shall be of the essence and will be stated on the invoice. If no time is stated then payment shall be due seven (7) days following the date of the invoice.

Payment will be made by cash, or by bank cheque, or by direct credit, or by electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the *Client* and the *Contractor*.

The *Contract Price* shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such tax is expressly included in the *Contract* schedule.

### Rebates and Incentives

6.1 In order to claim a Federal Government financial incentive available under the Small-scale Renewable Energy Scheme ("SRES"), the *Client* must use a CEC-accredited installer and designer, in

- 6.1 accordance with the Renewable Energy (Electricity) Regulations 2001(Cth).
- 6.2 Notwithstanding clause 6.1, the *Client* acknowledges and authorises the *Contractor* to apply in the *Client's* name for any grant, rebate or any other benefit (hereafter referred to as a Rebate) available, (if applicable) from the Commonwealth, State Government, or any local state Solar Feed Tariff Schemes in relation to the installation of a solar system and to receive payment of that Rebate on the *Client's* behalf.
- 6.3 The *Client* agrees to sign any necessary documents, provide any necessary information and take any necessary action the *Contractor* may require, enabling the *Contractor* to obtain payment of a Rebate.
- 6.4 If the *Contractor* receives payment of a Rebate, the *Contractor* will apply that payment in or towards satisfaction of the *Price*.
- 6.5 The *Contractor* is not responsible for any failure to obtain a Rebate and the *Client* shall remain liable to the *Contractor* for the whole of the *Price* and any other amounts due to the *Contractor* which are not paid in full.
- 6.6 The *Client* unconditionally assigns all Renewable Energy Certificates (RECs) and/or Smallscale Technology Certificates (STC's) to which the *Client* is entitled in respect of the *Services* to the *Contractor*, unless otherwise negotiated.
- 6.7 The *Client* acknowledges that, in certain circumstances, the Commonwealth Government, State Government or local government council (as applicable) may require repayment of a Rebate by the *Client* and in such circumstances the *Contractor* will have no liability to the *Client*.
- 7. Finance**
- 7.1 If this *Contract* is conditional upon the *Client* obtaining a loan from an Australian financial institution then they shall provide the *Contractor* with written confirmation of the loan approval by the date specified in the *Contract*. Such written confirmation is to include confirmation from the financial institution that the *Contractor* may commence the *Services*.
- 7.2 The *Client* shall authorise the *Client's* lender to, and the *Client's* lender may then, pay all monies advanced to the *Client* for payment of the *Contract Price* of the *Services* (or any part thereof) and approved by the *Client* direct to the *Contractor*.
- 7.3 In the event that any such loan application is declined then the *Client* shall have the right to withdraw from this *Contract* subject to the *Client* providing the *Contractor* with written evidence within five (5) Business Days of the date specified in the *Contract* that the loan was declined. Upon receipt of such evidence the *Contractor* shall refund the *Client* any deposit paid in accordance with clauses 27.1 and 27.2
- 7.4
- 7.5
- 8. Security Monies**

The *Client* shall, prior to the commencement of the *Services*, deposit any *Security Monies* into an interest-bearing account at a financial institution mutually agreed between the *Client* and the *Contractor*. The account must be a joint account in the names of both the *Client* and the *Contractor* and withdrawals shall require the signature of both of those parties.

It is agreed that *Security Monies* shall be used to pay progress payments to the *Contractor* before any loan monies are used to pay progress payments.

In the event that the *Client* fails to pay any *Security Monies* due to the *Contractor* or the *Contractor* terminates this *Contract* under clause 26 then the *Contractor* shall be entitled to *Security Monies* equivalent to any amount due and owing to the *Contractor* after having applied clauses 26.3 and 26.4.

After payment of the final progress payment to the *Contractor* any *Security Monies* remaining in the account (including any interest) shall belong to the *Client* (including any interest earned thereon).

**Provision of the Services**

Subject to clause 9.2 it is the *Contractor's* responsibility to do everything that it is reasonably possible for the *Contractor* to do to ensure that the *Services* start as soon as it is reasonably possible.

The *Services' proposed commencement date* will be put back and the building period extended by whatever time is reasonable in the event that the *Contractor* claims an extension of time (by giving the *Client* written notice) where completion is delayed by an event beyond the *Contractor's* control, including but not limited to any failure by the *Client* to:

- (a) make a selection; or
- (b) have the site ready for installation; or
- (c) notify the *Contractor* that the site is ready.

The *Services* shall be deemed to be at final completion when:

- (a) the *Services* carried out under this *Contract* have been completed in accordance with the plans and specifications set out in this *Contract*; and
- (b) the *Client* is given either:
  - (i) a copy of the certificate of final inspection;
  - (ii) handed over to the *Client*, all guarantees, instruction manuals and related documents relating to the *Services* and any permits, certificates or notices relating to the *Services*.

The failure of the *Contractor* to deliver shall not entitle either party to treat this *Contract* as repudiated.

The *Contractor* shall not be liable for any loss or damage whatever due to failure by the *Contractor* to deliver the *Services* (or any of them) promptly or at all, where due

to circumstances beyond the control of the *Contractor*.

**10. Suspension of the Services**

In the event that the *Client* fails or refuses to comply with an obligation specified in this *Contract* then the *Contractor* shall be entitled (without prejudice to any other rights of the *Contractor* under this *Contract*) to suspend the *Services*. Where the *Contractor* intends to suspend the *Services* under the provision of this clause, the *Contractor* must immediately notify the *Client* of the same in writing detailing the reasons for the suspension. The building period shall then be deemed to be suspended by a period equivalent to the period that commences from the date the notice was given to the *Client* by the *Contractor* continuing until the *Contractor* recommences *Services*.

10.1 The *Client* must remedy all breaches listed in the *Contractor's* suspension notice within ten (10) Business Days of receipt of such notice.

10.2 The *Contractor* shall within ten (10) Business Days of confirmation that the breaches listed in the suspension notice have been remedied by the *Client*, recommence the *Services*.

10.3 In the event that the *Contractor* incurs any additional cost as a result of suspending and/or recommencing the *Services* then all such additional costs will be deemed as being in addition to the *Contract Price* and treated as a variation in accordance with clause 4.

10.4 For the sake of clarity nothing in this clause 10 shall prevent the *Contractor's* right to terminate this *Contract* in accordance with the provisions of clause 26.

**11. Contract Documents - Discrepancies and Ambiguities**

If either party to this *Contract* finds any discrepancy or ambiguity in this *Contract* or any other documentation forming part of this *Contract* then that party must immediately notify the other party of the same in writing. Upon receipt of such notice it is agreed that both parties shall confer with each other in an attempt to resolve the discrepancy or ambiguity and where necessary the order of precedence specified in clause 31.8 shall apply.

If the parties cannot reach resolution over the discrepancy or ambiguity then either:

- (a) the matter is to be resolved in accordance with clause 25; or
- (b) the *Client* must give to the *Contractor* sufficient written instruction to enable the *Contractor* to proceed with the *Services*.

11.1 If, as a consequence of resolution under this clause 10, the *Contract Price* needs to vary and the problem that was resolved was not caused solely by documents provided by the *Contractor* then any price adjustment shall be deemed a variation and the *Contractor* shall provide to the *Client* a variation document in compliance with clause 4 above.

**12. The Worksite and Worksite Access**

12.1 The *Client* shall ensure that the *Contractor* has clear and free access to the *Worksite* at all times to enable them to undertake the *Services* (including carrying out *Worksite* inspections, gain signatures for required documents, and for the delivery and installation of the *Goods*); 13.1 and

- (a) the *Contractor* shall not be liable for any loss or damage to the *Worksite* (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas etc.) unless due to the *Contractor's* negligence; and
- (b) if the *Services* are interrupted by the failure of the *Client* to adhere to the work schedule agreed to between the *Contractor* and the *Client*, any additional costs will be invoiced to the *Client* as a variation in 13.2 accordance with clause 4.

12.2 It is the intention of the *Contractor* and agreed by the *Client* that it is the *Client's* responsibility to:

- (a) remove from the work area any furniture, personal effects or other property likely to impede the *Contractor* in order to minimise the risk of injury or any damage; and
- (b) provide the *Contractor*, while at the *Worksite*, with adequate access to available water, electricity, toilet and washing facilities.

12.3 The *Client* agrees to be present at the *Worksite* when and as reasonably requested by the *Contractor* and its 13.3 employees, contractors and/or agents.

12.4 Where the *Contractor* requires that *Goods*, tools etc. required for the *Services* be stored at the *Worksite*, the *Client* shall supply the *Contractor* a safe area for storage and shall take all reasonable efforts to protect all items from destruction, theft or damage. In the event that any of the stored items are destroyed, stolen or damaged, then the cost of repair or replacement shall be the *Client's* responsibility.

12.5 *Worksite* Inductions:

- (a) in the event the *Client* requires an employee or sub-contractor of the *Contractor* to undertake a *Worksite* induction during working hours, the *Client* will be liable to pay the hourly charges for that period. If any induction needs to be undertaken prior to the commencement date then the *Client* shall be liable to pay the *Contractor's* standard (and/or overtime, if applicable) hourly labour rate; or
- (b) where the *Contractor* is in control of the *Worksite*, the *Client* and/or the *Client's* third-party contractors must initially carry out the *Contractor's* Health & Safety induction course 13.4 before access to the *Worksite* will be granted. Inspection of the *Worksite* during the course of the *Services* will be by **appointment only** and unless otherwise agreed, in such an event the *Client* and/or

third party acting on behalf of the 14. *Client* must at all times be 14.1 accompanied by the *Contractor*.

**Client's Responsibility and Goods, Documents and/or Works Supplied by the Client**

It is the intention of the *Contractor* and agreed by the *Client* that:

- (a) any building/construction sites will comply with all Queensland or New South Wales occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation; and
- (b) the *Contractor* are not responsible for the removal of rubbish from or clean-up of the building/construction site/s. This is the responsibility of the *Client* or the *Client's* agent.

The *Client*:

- (a) warrants that any documentation supplied for the *Services* and the content or methods therein are accurate and/or suitable to be used for the purpose for which the document/s were created;
- (b) agrees that it is reasonable for the *Contractor* to rely on the documentation;
- (c) agrees to supply the *Contractor* with as many copies of the documentation as the *Contractor* may reasonably need to perform the *Services* or to obtain any necessary approvals required for the *Services*.

In the event that the *Client* undertakes or employs any third party to undertake any works at the *Worksite* whilst the *Contractor* is undertaking *Services* then the *Client* must ensure that the *Client* and/or any third party so employed:

- (a) is appropriately licensed for the works being undertaken, and will provide evidence of the same upon request by the *Contractor*; 14.2
- (b) does not interfere with the progress of *Services* by the *Contractor*;
- (c) holds all relevant insurances as the 14.3 *Contractor* is required to hold or as are otherwise required under this *Contract*;
- (d) co-operates with all requests or directives of the *Contractor* in relation to the timeliness and co-ordination of works to be performed;
- (e) co-operates as may be reasonably expected with all other persons on the *Worksite*; and
- (f) discusses any *Worksite* issues directly with the *Contractor* and not

with any of the *Contractor's* employees.

15. In the event that the *Client* or the *Client's* 15.1 third party employees do not comply with 15.2 13.3, then the *Contractor* may require the non-compliant party to either leave and/or stay off the *Worksite* as the *Contractor* may so direct.

**Insurance**

The *Contractor* shall:

- (a) in respect of its employees meet all current requirements of the Workers' Compensation & Rehabilitation Act 2003 (QLD or Worker's Compensation Act 1987 (NSW);
- (b) meet all current requirements of the Building Code of Australia, Australian Standards and/or Queensland or New South Wales legislation, the state in which the performance of *Works* is carried out;
- (c) maintain during the course of the *Services* a Contract Works Insurance policy in the name of the *Contractor*, the *Client* and the *Client's* lender (if required) for the full insurable value of the *Services* such policy to remain in place until completion takes place or the *Client* takes earlier possession of the *Worksite*;
- (d) maintain during the *Services* Public Liability Insurance cover of not less than five million dollars (\$5M) for any one occurrence, and which covers liabilities to third parties in respect of personal injury, death and loss or damage to property which may arise out of or in connection with the carrying out of the *Services*;
- (e) provide such domestic building Insurance as is required under the *Building Act*;
- (f) provide evidence of all or any of the above policies to the *Client* upon request; and
- (g) not have any liability in terms of any loss, claim, damage, or legal action howsoever arising in respect of any materials or other property placed on the *Worksite* without the *Contractor's* knowledge and/or written approval.

14.2 The insurance referred to in clause 14.1 shall be held with a reputable Australian insurer, at the discretion of the *Contractor*. 14.3 If the *Services* involve the repair, alteration, or any addition to an existing building then the *Client* shall effect and maintain during the course of the *Services* insurance cover for the full replacement value of any buildings which will be affected by the *Services* (including the contents thereof) against loss, damage and all other usual risks, and shall provide evidence of the currency of the insurance to the *Contractor* upon request. Such cover is to be provided by the *Client* until completion in accordance with the plans and specifications or the *Client* takes total possession of the *Worksite* whichever first occurs.

**Risk**

15.1 If the *Contractor* retains ownership of the *Goods* nonetheless, all risk for the *Goods* passes to the *Client* on completion. 15.2 The *Client* warrants that any structures to which the *Goods* are to be affixed are able to withstand the installation of the *Goods* and that any electrical connections

- (including, but not limited to, meter boxes, main switches, circuit breakers, and electrical cable) are of suitable capacity to handle the *Goods* once installed. If, for any reason (including the discovery of asbestos, defective or unsafe wiring, or dangerous access to roofing or risk), the *Contractor* reasonably forms the opinion that the *Client's* premises is not safe for the installation of *Goods* to proceed then the *Contractor* shall be entitled to delay installation of the *Goods* (in accordance with clause 9.2) until the *Contractor* is satisfied that it is safe for the installation to proceed.
- 15.3 In the event where additional services are required due to the discovery by the *Contractor* of hidden or unidentifiable difficulties (including, but not limited to, any inclement weather, limitations to accessing the site, obscured site/building defects, safety considerations/health hazards (such as the discovery of asbestos), prerequisite work by any third party not being completed, or hidden wiring in walls etc) which are only discovered on commencement of the *Services*, then a variation to the *Contract Price* will apply and shall be summarised in detail to the *Client* in accordance with clause 4, prior to continuing with the *Services*.
- 15.4 Where the *Goods* are to be installed on a tiled roof the *Contractor* gives no guarantee (expressed or implied) against crazing, cracking, chipping or scratching that may occur that is beyond the *Contractor's* control due to the nature of the product at the time of installation of the *Goods*. the *Contractor* will repair any damage to the tiles to a reasonable standard therefore the *Contractor* recommends that the *Client* allows for extra tiles for such breakages. the *Contractor* will not be held accountable for obtaining replacement tiles.
- 16. Specifications**
- 16.1 The *Client* acknowledges that:
- (a) all descriptive specifications, illustrations, drawings, data, dimensions and weights stated in the *Contractor'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 *Contract*, unless expressly stated as such in writing by the *Contractor*;
- (b) while the *Contractor* may have provided information or figures to the *Client* regarding the performance of the *Goods*, the *Client* acknowledges that the *Contractor* has given these in good faith, and are estimates based on Clean Energy Council (CEC) prescribed estimates. The energy generation may be less than estimates due to factors out of the *Contractor's* control (including, but not limited to, hours of sunlight, cloud cover, weather patterns, the location (geographical or otherwise) of the *Goods* and the location of surrounding structures and flora;
- (c) some buildings may not have the optimum orientation for the installation of the *Goods* or components, and therefore understands and accepts that the *Goods* performance may be compromised in such situations. Notwithstanding the former the *Contractor* will use its best endeavours to install and position the *Goods* to maximise orientation and exposure to direct sunlight.
- 16.2 The *Client* shall be responsible for ensuring that the *Goods* ordered are suitable for their intended use.
- 17. Solar Panels**
- 17.1 Whilst the final location of the inverter and solar panels is at the discretion of the *Client*, a charge will apply as a variation as per clause 4, if the *Client* requests the inverter and/or panels to be installed in a different location other than that agreed upon by both parties.
- 17.2 The *Client* acknowledges and agrees that it is their responsibility to insure any equipment partly or completely installed on *Worksite*, against theft or damage.
- 17.3 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 4.
- 17.4 The *Client* acknowledges and accepts that the mains power is required to be isolated in order for the *Contractor* to complete the final connection of the solar main switch, the *Client* agrees to indemnify the *Contractor* in respect of all and any liability claims, loss, damage, costs and fines if a power surge is to occur when the power is turned back on.
- 17.5 The *Client* warrants that the roof is structural sound and that any and all pre-existing damages have been brought to the *Contractor* attention prior to the commencement of the *Services*. The *Contractor* will conduct a roof inspection and reserves the right to halt all *Services* (in accordance with clause 9.2) if in their opinion the roof is unsafe and/or if any existing damages need repairing in order for the *Contractor* to complete the scheduled *Services*, the *Client* will be informed of this and will be given a revised quotation or estimate to repair any issues (including but not limited to broken tiles, etc.). Should the *Client* not wish to proceed the *Contractor* will charge a standard fee for the time spent on site based on the *Contractor's* quotation.
- 17.6 All work will be tested to ensure that it is electrically safe and is in accordance with the wiring rules and other standards applying to the electrical installation under the Electrical Safety Regulations. All of the cabling work will comply with the Australian Wiring standards.
- 18. Underground Services**
- 18.1 Prior to the *Contractor* commencing the *Services* the *Client* must advise the *Contractor* of the precise location of all underground services on the *Worksite* and clearly mark the same. The underground mains and services the *Client* must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on the *Worksite*.
- 18.2 Whilst the *Contractor* will take all care to avoid damage to any underground services the *Client* agrees to indemnify the *Contractor* in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 18.1.
- 19. Surplus Goods**
- 19.1 Unless otherwise stated elsewhere in this *Contract*;
- (a) only suitable new *Goods* will be used;
- (b) demolished materials remain the *Client's* property; and
- (c) *Goods* which the *Contractor* bring to the *Worksite* which are surplus remain the property of the *Contractor*.
- 20. Title**
- 20.1 It is the intention of the *Contractor* and agreed by the *Client* that ownership of *Goods* shall not pass until:
- (a) the *Client* has paid all amounts owing for the particular *Goods*; and
- (b) the *Client* has met all other obligations due by the *Client* to the *Contractor* in respect of all contracts between the *Contractor* and the *Client*.
- 20.2 Receipt by the *Contractor* of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the *Contractor's* ownership or rights in respect of *Goods* shall continue.
- 20.3 It is further agreed that:
- (a) where practicable the *Goods* shall be kept separate and identifiable until the *Contractor* shall have received payment and all other obligations of the *Client* are met;
- (b) until such time as ownership of the *Goods* shall pass from the *Contractor* to the *Client* the *Contractor* may give notice in writing to the *Client* to return the *Goods* or any of them to the *Contractor*. Upon

- such notice the rights of the *Client* to obtain ownership or any other interest in the *Goods* shall cease;
- (c) the *Contractor* shall have the right of stopping the *Goods* in transit whether or not delivery has been made;
- (d) if the *Client* fails to return the *Goods* to the *Contractor* then the *Contractor* or the *Contractor's* agent may (as the invitee of the *Client*) enter upon and into land and premises owned, occupied or used by the *Client*, or any premises where the *Goods* are situated and take possession of the *Goods*.
- 21.4
- 21.5
- 21. Personal Property Securities Act 2009 ("PPSA")**
- 21.1 In this clause:
- (a) financing statement has the meaning given to it by the PPSA;
- (b) security agreement means the security agreement under the PPSA created between the *Client* and the *Contractor* by these terms and conditions; and
- (c) security interest has the meaning given to it by the PPSA.
- 21.2 Upon assenting to these terms and conditions in writing the *Client* acknowledges and agrees that these terms and conditions:
- (a) constitute a security agreement for the purposes of the PPSA; and
- (b) create a security interest in:
- (i) all *Goods* previously supplied by the *Contractor* to the *Client* (if any);
- (ii) all *Goods* that will be supplied in the future by the *Contractor* to the *Client*.
- 21.3 The *Client* undertakes to:
- (a) 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 21.3(a)(i) or 21.3(a)(ii);
- (b) indemnify, and upon demand reimburse, the *Contractor* for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any *Goods* charged thereby;
- (c) not register a financing change statement in respect of a security interest without the prior written consent of the *Contractor*; and
- (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the *Goods* in favour of a third party without the prior written consent of the *Contractor*.
- (e) immediately advise the *Contractor* of any material change in its business practices of selling the *Goods* which would result in a change in the nature of proceeds derived from such sales.
- 22.2 The *Contractor* and the *Client* agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 22.3 The *Client* hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 22.4 The *Client* waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 22.5 Unless otherwise agreed to in writing by the *Contractor*, the *Client* waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 22.6 The *Client* shall unconditionally ratify any actions taken by the *Contractor* under clauses 21.3 to 21.5.
- 22. Warranty**
- To the extent required by the Commonwealth Competition and Consumer Act 2010, the Domestic Building Contracts Act 2000 (QLD) or the Home Building Act 1989 (NSW), the *Contractor* warrants that:
- (a) the *Services* shall be carried out in a proper and workmanlike manner and in accordance with the plans and specifications set out in the *Contract* schedule;
- (b) all *Goods* supplied be good and, having regard to the relevant criteria, suitable for the purpose for which they are used and that, unless otherwise stated in this *Contract*, those *Goods* will be new;
- (c) the *Services* will be carried out in accordance with, and comply with, all statutes, regulations and bylaws of government and legal requirements (including, but not limited to, the *Building Act* and regulations under that Act and the Clean Energy Council Code of Conduct);
- (d) the *Services* will be carried out with reasonable skill and care and will be completed by the date specified in the *Contract*;
- (e) the *Services* will be carried out in accordance with the plans and the specifications to this *Contract*;
- (f) if the *Services* consist of the erection or construction of a home, or is work intended to renovate, alter, extend, improve or repair a home to a stage suitable for occupation, the home will be suitable for occupation at the time the work is completed; and
- (g) if the *Contract* states the particular purpose for which the *Services* are required, or the result which the *Client* wishes the *Services* to achieve (so as to show that the *Client* relies on the *Contractor's* skill and judgement) then the *Services* and any *Goods* will be reasonably fit for that purpose or will be of such a nature and quality that they might reasonably be expected to achieve that result.
- Subject to the conditions of warranty set out in clause 22.3 the *Contractor* warrants that if any defect in any workmanship or the operation and performance of the *Goods* (i.e. the whole solar PV system) of the *Contractor* becomes apparent and is reported to the *Contractor* within the standard minimum five (5) years as required by Section 2.2.4 of the CEC of the date of installation (time being of the essence) then the *Contractor* will either (at the *Contractor's* sole discretion) replace or remedy the workmanship.
- If the *Client* is a consumer within the meaning of the CCA, the *Contractor* liability is limited to the extent permitted by section 64A of Schedule 2.
- If the *Contractor* is required to replace any *Goods* under this clause or the CCA, but is unable to do so, the *Contractor* must refund any money the *Client* has paid for the *Goods*.
- If the *Contractor* is required to rectify, re-supply, or pay the cost of re-supplying the *Services* under this clause or the CCA, it must be done so within a reasonable timeframe as to be agreed between the two parties but if the *Contractor* is unable to do so, then the *Contractor* must 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* and *Goods* which have been provided to the *Client* which were not defective.
- The conditions applicable to the warranty given by clause 22.2 are:
- (a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
- (iii) failure on the part of the *Client* to properly maintain any *Goods*; or
- (iv) failure on the part of the *Client* to follow any instructions or guidelines provided by the *Contractor*; or
- (v) any use of any *Goods* otherwise than for any application specified on a quote or order form; or
- (vi) the continued use of any *Goods* after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
- (vii) fair wear and tear, possums any accident or act of God.
- (b) the warranty shall cease and the *Contractor* shall thereafter in no

- circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled without the Contractor's consent.
- (c) in respect of all claims the Contractor shall not be liable to compensate the Client for any delay in either replacing or remedying the workmanship or in properly assessing the Client's claim.
- 22.7 For Goods not manufactured by the Contractor the warranty shall be the current warranty provided by the manufacturer of the Goods. the Contractor shall be under no liability whatsoever except for the express conditions as detailed and stipulated in the manufacturer's warranty.
- 22.8 **The Commonwealth Competition and Consumer Act 2010, Domestic Building Contracts Act 2000, Home Building Act 1989, Clean Energy Council (CEC) Solar Retailer Code of Conduct ("the Code"), Renewable Energy (Electricity) Regulations 2001 or Fair Trading Acts**
- 22.9 Nothing in this Contract is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Competition and Consumer Act 2010, Domestic Building Contracts Act 2000, Home Building Act 1989, Clean Energy Council (CEC) Solar Retailer Code of Conduct ("the Code"), Renewable Energy (Electricity) Regulations 2001 (Cth), or the Fair Trading Acts in each of the States and Territories of Australia (including any substitute to those Acts or re-enactment thereof), except to the extent permitted by those Acts where applicable.
- 23. Intellectual Property**
- 23.1 Where the Contractor has designed, drawn, written plans or a schedule of Services, or created any products for the Client, then the copyright in all such designs, drawings, documents, plans, schedules and products shall remain vested in the Contractor, and shall only be used by the Client at the Contractor's discretion. Under no circumstances may such designs, drawings and documents be used without the express written approval of the Contractor.
- 23.2 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.
- 23.3 The Client agrees that the Contractor may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or products which the Contractor has created for the Client.
- 24. Default and Consequences of Default**

- Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at the Contractor's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- If the Client owes the Contractor any money the Client shall indemnify the Contractor from and against all costs and disbursements incurred by the Contractor in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, the Contractor's contract default fee, and bank dishonour fees).
- Further to any other rights or remedies the Contractor may have under this Contract, if the Client has made payment to the Contractor, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Contractor under this clause 24 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.
- Without prejudice to any other remedies the Contractor may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Contractor may suspend or terminate the supply of Services to the Client. The Contractor will not be liable to the Client for any loss or damage the Client suffers because the Contractor have exercised its rights under this clause.
- 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 Client which remains unperformed and all amounts owing to the Contractor shall, whether or not due for payment, become immediately payable in the event that:
- the Client becomes unable to pay their debts or bankrupt; or
  - enters into an arrangement with, or makes an assignment for the benefit of their creditors; or
  - a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of any asset of the Client.
- 25. Disputes & Complaints Policy**
- Where a dispute/complaint arises between the Parties, it will be referred to the Contractor and the Client's directors for resolution. The Contractor and the Client agree to solve any disputes/complaint amicably and in good faith and on a without prejudice basis in line with CEC's Code of Conduct Code 2.4.5, including the Australian Standard on Complaints Handling AS ISO 10002-2006 and all subsequent amendments thereof, and not begin court proceedings or mediation or arbitration proceedings until the dispute/complaint resolution

- channel provided in this clause has been exhausted.
- If a resolution is not provided within the relevant Code of Conduct timeframes, the Client may, without limiting their other rights and remedies:
- escalate the request to the Parties' respective relationship managers identified below and then to their respective senior management identified below:  
**Contractor's Contacts:**
    - Contact Name: Tony Sunderland  
Contact Title: Business Development  
Contact Email Address: [tony.s@industrialelectrics.com.au](mailto:tony.s@industrialelectrics.com.au)  
Contact Number: 1300 518 148
- Industrial Electrics Contacts:**
- Escalation Contact Name: Vaughan Watkins  
Escalation Contact Title: Director  
Escalation Contact Email Address: [accounts@industrialelectrics.com.au](mailto:accounts@industrialelectrics.com.au)  
Primary Contact Number: 1300 518 148
- The dispute/complaint resolution process will be as follows:
- A party may give notice to the other party about the nature of the dispute or complaint (a "Dispute/Complaint Notice") and the parties will seek to reach settlement amongst themselves within twenty-one (21) Business Days of receipt of the Dispute/Complaint Notice ("Negotiation Period"). Should the Parties fail to determine the dispute within the Negotiation Period, the Parties may seek within a further period of twenty-four (24) Business Days (or such longer period as agreed in writing between the Parties) to reach Agreement on:
    - a mediation procedure out of courts and arbitration proceedings, (such as mediation, reconciliation or expert determination process);
    - the steps to be taken by each Party and the timing of those steps;
    - who will be the independent person/body conducting the mediation process and who will pay for such independent person's/ body's professional fees and expenses.
  - If the Parties fail to solve the entire dispute/complaint or fail to reach agreement on any of the matters described above within forty-five (45) days (or any other period agreed in writing) from the date of the Dispute/Complaint Notice, either the Contractor or the Client may commence court proceedings or arbitration proceedings to resolve the dispute by lodging a claim with either:
    - the Queensland Civil and Administrative Tribunal (QCAT), all information is accessible on the website at:

- https://www.qbcc.gov.au/consumers/complaints; or
- (ii) the NSW Civil & Administration Tribunal (NCAT) all information is accessible on the website at: https://www.ncat.nsw.gov.au; or
- (iii) the Office of Fair Trading (NSW), all information is accessible on the website at: https://www.fairtrading.nsw.gov.au/help-centre/online-tools/make-a-complaint; or
- (iv) the Australian Competition and Consumer Commission, all information is accessible from the website at: https://www.accc.gov.au.

25.4 Where a dispute/complaint exists, each of the Parties must continue to perform its obligations under this *Contract*, unless the other Party evinces an intention not to comply with this clause.

25.5 Furthermore, where the complaint is in relation to any staff member of Industrial Electrics Pty Ltd:

- (a) the complaint, and the identity of the complainant, will be kept confidential between the parties concerned;
- (b) a written record of events will be documented by Industrial Electrics Pty Ltd's Director, in order to authenticate, monitor and evidence the complaint;
- (c) all compiled written information will be considered by the Director of Industrial Electrics Pty Ltd, to enable an informed decision to be made regarding the complaint;
- (d) the complainant and applicable staff member(s) will be advised of the outcome of the investigation and any disciplinary action, which will be managed in accordance with the Fair Work Act 2009, etc.;
- (e) in the event the complainant is unsatisfied with the outcome of the investigation, the *Contractor* and the complainant shall confer to discuss the matter further.

## 26. Termination by the Contractor

26.1 Without prejudice to any other remedies the *Contractor* may have, if at any time the *Client* is in breach of any obligation (including those relating to payment, whether or not the payment is due to the *Contractor*) the *Contractor* may suspend or terminate the provision of *Services* to the *Client*, and any of its other obligations under this Agreement. The *Contractor* will not be liable to the *Client* for any loss or damage the *Client* suffers because the *Contractor* have exercised its rights under this clause.

26.2 The *Contractor* may, in addition to their right to terminate under clause 26.1:

- (a) do so at any time:
  - (i) prior to the commencement of the *Services*, by giving thirty (30) Business Days' notice to the *Client*, in the event the *Contractor* determine it is not technically, commercially or

operationally feasible to provide the *Services* to the *Client*;

- (ii) in the event the *Client* materially breaches this *Contract*, and such breach is not capable of remedy; or
- (iii) fails to comply with the *Client*'s obligations under clauses 3, 4, 5, 6, 8, 9, 10, 11, 13, or 14 (each as applicable to this *Contract*);
- (iv) is otherwise in substantial breach of this *Contract*.

If the *Contractor* serves notice on the *Client* under clause 26.2, then such notice must:

- (a) include full details of the alleged breach or breaches; and
- (b) state that it is the *Contractor*'s intention to terminate the *Contract* unless the *Client* has remedied all such breaches within ten (10) Business Days of receipt by the *Client* of such notice.

26.4 If the *Contract* is ended under this clause 26, (unless subject to clause 27.1 and a full refund applies) then the *Contractor* is entitled to a reasonable amount for any *Services* already carried out, plus any other costs incurred by the *Contractor* as a result of, or prior to, the termination of the *Contract*, including, but not limited to:

- (a) the cost of any *Goods* already purchased for the *Services*, or ordered from the *Contractor*'s suppliers which cannot be returned to the *Contractor*'s suppliers, or for which the order cannot be cancelled;
- (b) any restocking fees charged by the *Contractor*'s suppliers;
- (c) any additional costs incurred by the *Contractor* through having to quit the *Worksite* early;
- (d) any default interest, fees or charges that the *Contractor* is entitled to charge, or incurs, under clause 24.

## 27. Termination by Client and Refund Policy

27.1 The *Client* shall have the right to terminate the *Contract* and request a full refund, in the event that:

- (a) the final system design provided in accordance with CEC Code of Conduct 2.1.6(e) where a *Worksite*-specific full system design including the proposed roof plan, orientation and tilt, expected efficiency losses due to shading, and the system's *Worksite*-specific estimated energy yield (as per the diagram provided with the Residential Quotation), and supporting information is not provided prior to the expiry of the ten (10) days cooling-off period for the *Client* to make an informed decision on and consent; or
- (b) CEC Code of Conduct 2.1.6(f) where any *Worksite* conditions and special circumstances beyond the control of the *Contractor* which result in extra chargeable work not covered by the quote and shall

include the likes of any additional costs that may arise at or after installation and that will not be borne by the *Contractor*, such as fees for:

- (i) meter exchange/reconfiguration, damage on meter panels; and
  - (ii) changing dedicated off peak control devices if required; and
- (c) if the estimated delivery timeframes for installation completion that was agreed upon at the point of contract is not honoured, for reasons reasonably *within* the *Contractor*'s control, and the *Client* does not consent to a revised timeframe; or
- (d) where the *Contractor* acting on behalf of the *Client* has the consent to obtain the grid connection approval and does not do so prior to installation, and the *Client* does not receive approval from the electrical grid distributor to connect a solar PV system; and
- (e) if extra chargeable work arises, which was not specified in the initial contract, and the additional costs are not borne by the *Contractor* and the *Client* does not consent to these additional costs.

To end the *Contract*, the *Client* must give the *Contractor* a signed notice stating that the *Client* is ending the *Contract* under this clause 27 and giving the details of why the *Contract* is being ended.

## Privacy Policy

All emails, documents, images or other recorded information held or used by the *Contractor* is *Personal Information*, as defined and referred to in clause 28.3, and therefore considered confidential information. The *Contractor* acknowledges its obligation in relation to the handling, use, disclosure and processing of *Personal Information* pursuant to the Privacy Act 1988 ("the Act") including the Part IIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). The *Contractor* acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the *Client*'s *Personal Information*, held by the *Contractor* that may result in serious harm to the *Client*, the *Contractor* will notify the *Client* in accordance with the Act and/or the GDPR. Any release of such *Personal Information* must be in accordance with the Act and the GDPR (where relevant) and must be approved by the *Client* by written consent, unless subject to an operation of law.

Notwithstanding clause 28.1, privacy limitations will extend to the *Contractor* in respect of cookies where the *Client* utilises the *Contractor*'s website to make enquiries. The *Contractor* agrees to display reference to such cookies and/or



similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of *Personal Information* such as the *Client's*:

- (a) IP address, browser, email client type and other similar details;
- (b) tracking website usage and traffic; and
- (c) reports are available to the *Contractor* when the *Contractor* sends an email to the *Client*, so the *Contractor* may collect and review that information ("collectively *Personal Information*")

**If the *Client* consents to the *Contractor's* use of cookies on the *Contractor's* website and later wish to withdraw that consent, the *Client* may manage and control the *Contractor's* privacy controls via the *Client's* web browser, including removing cookies by deleting them from the browser history when exiting the site.**

28.3 The *Client* agrees for the *Contractor* to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the *Client* in relation to credit provided by the *Contractor*.

28.4 The *Client* agrees that the *Contractor* may exchange information about the *Client* with those credit providers and with related body corporates for the following purposes:

- (a) to assess an application by the *Client*; and/or
- (b) to notify other credit providers of a default by the *Client*; and/or
- (c) to exchange information with other credit providers as to the status of this credit account, where the *Client* is in default with other credit providers; and/or
- (d) to assess the creditworthiness of the *Client* including the *Client's* repayment history in the preceding two (2) years.

28.5 The *Client* consents to the *Contractor* being given a consumer credit report to collect overdue payment on commercial credit.

28.6 The *Client* agrees that personal credit information provided may be used and retained by the *Contractor* for the following purposes (and for other agreed purposes or required by):

- (a) the provision of the *Services*; and/or
- (b) analysing, verifying and/or checking the *Client's* credit, payment and/or status in relation to the provision of the *Services*; and/or
- (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the *Client*; and/or
- (d) enabling the collection of amounts outstanding in relation to the *Services*.

28.7 The *Contractor* may give information about the *Client* to a CRB for the following purposes:

- (a) to obtain a consumer credit report;
- (b) allow the CRB to create or maintain a credit information file about the *Client* including credit history.

28.8 The information given to the CRB may include:

- (a) *Personal Information* as outlined in 28.3 above;
- (b) name of the credit provider and that the *Contractor* is a current credit provider to the *Client*;
- (c) whether the credit provider is a licensee;
- (d) type of consumer credit;
- (e) details concerning the *Client's* application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
- (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the *Client* no longer has any overdue accounts and the *Contractor* has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);

29.1 information that, in the opinion of the *Contractor*, the *Client* has committed a serious credit infringement;

29.2 advice that the amount of the *Client's* overdue payment is equal to or more than one hundred and fifty dollars (\$150).

30. The *Client* shall have the right to request (by e-mail) from the *Contractor*:

- (a) a copy of the *Personal Information* about the *Client* retained by the *Contractor* and the right to request that the *Contractor* correct any incorrect *Personal Information*; and
- (b) that the *Contractor* does not disclose any *Personal Information* about the *Client* for the purpose of direct marketing.

28.10 The *Contractor* will destroy *Personal Information* upon the *Client's* request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this *Contract* or is required to be maintained and/or stored in accordance with the law.

28.11 The *Client* can make a privacy complaint by contacting the *Contractor* via e-mail. The *Contractor* will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the *Client* is not satisfied with the resolution provided, the *Client* can make a complaint to the Information Commissioner at [www.oaic.gov.au](http://www.oaic.gov.au).

## Service of Notices

Any written notice given under this *Contract* shall be deemed to have been given and received:

- (a) by handing the notice to the other party, in person;
- (b) by leaving it at the address of the other party as stated in this *Contract* with a person who appears to be at least sixteen (16) years old;
- (c) by sending it by registered post to the address of the other party as stated in this *Contract*;
- (d) if sent by facsimile transmission (if sent before 5.00pm on a *Business Day*, on the day it is sent and, if sent later in the day, on the next *Business Day*) to the fax number of the other party as stated in this *Contract* (if any), on receipt of confirmation of the transmission;
- (e) if sent by email (if sent before 5.00pm on a *Business Day*, on the day it is sent and, if sent later in the day, on the next *Business Day*) to the other party's current email address.

Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post the notice would have been delivered.

## Trusts

If the *Client* at any time upon or subsequent to entering in to the *Contract* is acting in the capacity of trustee of any trust ("Trust") then whether or not the *Contractor* may have notice of the Trust, the *Client* covenants with the *Contractor* as follows:

- (a) the *Contract* extends to all rights of indemnity which the *Client* now or subsequently may have against the Trust and the trust fund;
- (b) the *Client* has full and complete power and authority under the Trust to enter into the *Contract* and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the *Client* against the Trust or the trust fund. The *Client* will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
- (c) the *Client* will not without consent in writing of the *Contractor* (the *Contractor* will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
  - (i) the removal, replacement or retirement of the *Client* as trustee of the Trust;
  - (ii) any alteration to or variation of the terms of the Trust;
  - (iii) any advancement or distribution of capital of the Trust; or
  - (iv) any resettlement of the Trust property.

## 31. General

*Contractor's* Initials ..... *Client's* Initials .....

- 31.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. 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.
- 31.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the state in which the *Goods* and/or *Services* were provided by the *Contractor* to the *Client* however, in the event of a dispute that deems necessary for the matter to be referred to a Magistrates or higher Court then jurisdiction will be subject to the Southport Court in the state of Queensland in which the *Contractor* has its principal place of business.
- 31.3 Subject to clause 22.8, the *Contractor* shall be under no liability whatever to the *Client* for any indirect loss and/or expense (including loss of profit) suffered by the *Client* arising out of a breach by the *Contractor* of this *Contract*. In the event of any breach of this *Contract* by the *Contractor* the remedies of the *Client* shall be limited to damages. Under no circumstances shall the liability of the *Contractor* exceed the *Contract Price* of the *Services*.
- 31.4 The *Client* shall not be entitled to set off against or deduct from the *Contract Price* any sums owed or claimed to be owed to the *Client* by the *Contractor*.
- 31.5 The *Contractor* may license or sub-contract all or any part of its rights and obligations without the *Client's* consent (which shall not be unreasonably withheld). The *Contractor* may elect to sub-contract out any part of the *Services* but shall not be relieved from any liability or obligation under this *Contract* by so doing. Furthermore, the *Client* agrees and understands that they have no authority to give any instruction to any of the *Contractor's* sub-contractors without the authority of the *Contractor*.
- 31.6 Neither party shall be liable for any default due to any act of God, war, terrorism, fire, flood, storm or other event beyond the reasonable control of either party.
- 31.7 Both parties warrant that they have the power to enter into this *Contract* and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this *Contract* creates binding and valid legal obligations on them.
- 31.8 This *Contract*, the plans and specifications have precedence in that order if there is any inconsistency between them.

I/we certify that I/we have received read and understand the Terms and Conditions of Trade of Industrial Electrics Pty Ltd, and that the *Contractor* has explained prior to signing this Contract that my/our electricity contract/tariff may change following the installation of solar and that it has been recommended that I/we contact my/our electricity retailer to check what the new electricity tariff rates that may apply and to check after installation of the solar PV system that the agreed tariff has been applied, I/we accept that this is my/our responsibility. I authorise the use of my *Personal Information* as detailed in the Privacy Policy clause 28 above.

**Clients**

Signed *Client* (1): \_\_\_\_\_ Date: \_\_\_\_\_

Name: *(please print)*: \_\_\_\_\_

Signed *Client* (2): \_\_\_\_\_ Date: \_\_\_\_\_

Name: *(please print)*: \_\_\_\_\_

**Contractor**

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

**Post-Installation**

The *Contractor* in accordance with the CEC Code of Conduct-Codes 2.2.5 & 2.2.6, will ensure the *Client* is advised how to measure the performance of their system. The *Contractor* are required to specify, using at least one of the following methods, how energy output can be measured:

- (a) Demonstration;
- (b) Written instructions on how to read the inverter; or
- (c) Provision of a measuring device that links back to the inverter.

**Energy output is a reasonable measure of performance, savings are not.**

I/we **acknowledge and confirm** that the *Contractor* have provided the appropriate documentation necessary to assist in maintaining and servicing my/our Solar PV System and I/we understand the importance of carrying out regular maintenance checks on the Solar PV System.

*Client's* Initials: \_\_\_\_\_

Date: \_\_\_\_\_