

1. Definitions

- 1.1 “PRF Electrical” means PRF Industries Pty Ltd T/A PRF Electrical, its successors and assigns or any person acting on behalf of and with the authority of PRF Industries Pty Ltd T/A PRF Electrical.
- 1.2 “Customer” means the person/s ordering the Works as specified in any invoice, document or order, and if there is more than one Customer is a reference to each Customer jointly and severally.
- 1.3 “Works” means all Works or Materials supplied by PRF Electrical to the Customer at the Customer’s request from time to time (where the context so permits the terms ‘Works’ or ‘Materials’ shall be interchangeable for the other).
- 1.4 “Price” means the Price payable for the Works as agreed between PRF Electrical and the Customer in accordance with clause 4 below.

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of any Works.
- 2.2 These terms and conditions may only be amended with PRF Electrical’s consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and PRF Electrical.

3. Change in Control

- 3.1 The Customer shall give PRF Electrical not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer’s details (including but not limited to, changes in the Customer’s name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by PRF Electrical as a result of the Customer’s failure to comply with this clause.

4. Price and Payment

- 4.1 At PRF Electrical’s sole discretion the Price shall be either:
 - (a) as indicated on invoices provided by PRF Electrical to the Customer in respect of Works performed or Materials supplied; or
 - (b) PRF Electrical’s quoted Price (subject to clause 4.2) which shall be binding upon PRF Electrical provided that the Customer shall accept PRF Electrical’s quotation in writing within thirty (30) days.
- 4.2 PRF Electrical reserves the right to change the Price:
 - (a) if a variation to the Materials which are to be supplied is requested; or
 - (b) if a variation to the Works originally scheduled (including any applicable plans or specifications) is requested; or
 - (c) where additional Works are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, hard rock barriers below the surface, iron reinforcing rods in concrete, or hidden pipes and wiring in walls etc) which are only discovered on commencement of the Works; or
 - (d) in the event of increases to PRF Electrical in the cost of labour or materials which are beyond PRF Electrical’s control.
- 4.3 At PRF Electrical’s sole discretion a non-refundable deposit may be required.
- 4.4 Time for payment for the Works being of the essence, the Price will be payable by the Customer on the date/s determined by PRF Electrical, which may be:
 - (a) on completion of the Works; or
 - (b) before completion of the Works; or
 - (c) by way of progress payments in accordance with PRF Electrical’s specified progress payment schedule. Such progress payment claims may include the reasonable value of authorised variations and the value of any Materials delivered to the site but not yet installed; or
 - (d) the date specified on any invoice or other form as being the date for payment; or
 - (e) for approved commercial customers, the date which is twenty-eight (28) days following the date of any invoice given to the Customer by PRF Electrical; or
 - (f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by PRF Electrical.
- 4.5 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, or by any other method as agreed to between the Customer and PRF Electrical.
- 4.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to PRF Electrical an amount equal to any GST PRF Electrical must pay for any supply by PRF Electrical under this or any other agreement for the sale of the Materials. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

5. Delivery of the Works

- 5.1 Delivery (“**Delivery**”) of the Materials is taken to occur at the time that:
 - (a) the Customer or the Customer’s nominated carrier takes possession of the Materials at PRF Electrical’s address; or
 - (b) PRF Electrical (or PRF Electrical’s nominated carrier) delivers the Materials to the Customer’s nominated address even if the Customer is not present at the address.
- 5.2 At PRF Electrical’s sole discretion the cost of delivery is either included in the Price or is in addition to the Price.

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- 5.3 The Customer must take delivery by receipt or collection of the Materials whenever they are tendered for delivery. In the event that the Customer is unable to take delivery of the Materials as arranged then PRF Electrical shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 5.4 Subject to clause 5.5 it is PRF Electrical's responsibility to ensure that the Works start as soon as it is reasonably possible.
- 5.5 The Works commencement date will be put back and/or the completion date extended by whatever time is reasonable in the event that PRF Electrical claims an extension of time (by giving the Customer written notice) where completion is delayed by an event beyond PRF Electrical's control, including but not limited to any failure by the Customer to:
- (a) make a selection; or
 - (b) have the site ready for the Works; or
 - (c) notify PRF Electrical that the site is ready.
- 5.6 PRF Electrical may deliver the Works by separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 5.7 Any time or date given by PRF Electrical to the Customer is an estimate only. PRF Electrical shall not be liable for any loss or damage whatsoever due to failure by PRF Electrical to deliver the Works (or any part of them) promptly or at all, where due to circumstances beyond the reasonable control of PRF Electrical.

6. Risk

- 6.1 If PRF Electrical retains ownership of the Materials under clause 10 then;
- (a) where PRF Electrical is supplying Materials only, all risk for the Materials shall immediately pass to the Customer on delivery and the Customer must insure the Materials on or before delivery. Delivery of the Materials shall be deemed to have taken place immediately at the time that either;
 - (i) the Customer or the Customer's nominated carrier takes possession of the Materials at PRF Electrical's address; or
 - (ii) the Materials are delivered by PRF Electrical or PRF Electrical's nominated carrier to the Customer's nominated delivery address (even if the Customer is not present at the address).
 - (b) where PRF Electrical is to both supply and install Materials then PRF Electrical shall maintain a contract works insurance policy until the Works are completed. Upon completion of the Works all risk for the Works shall immediately pass to the Customer.
- 6.2 Notwithstanding the provisions of clause 6.1 if the Customer specifically requests PRF Electrical to leave Materials outside PRF Electrical's premises for collection or to deliver the Materials to an unattended location then such materials shall always be left at sole risk of the Customer and it shall be the Customer's responsibility to ensure the Materials are insured adequately or at all. In the event that such Materials are lost, damaged or destroyed then replacement of the Materials shall be at the Customer's expense.
- 6.3 Where the Customer has supplied materials for PRF Electrical to complete the Works, the Customer acknowledges that he accepts responsibility for the suitability of purpose, quality and any faults inherent in the Materials. PRF Electrical shall not be responsible for any defects in the Works, any loss or damage to the Materials (or any part thereof), howsoever arising from the use of Materials supplied by the Customer.
- 6.4 The Customer warrants that any structures to which the Materials are to be affixed are able to withstand the installation of the Materials 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 Materials once installed. If for any reason (including the discovery of asbestos, defective or unsafe wiring or dangerous access to roofing) that PRF Electrical, its employees or contractors reasonably form the opinion that the Customer's premises is not safe for the installation of Materials to proceed then PRF Electrical shall be entitled to delay installation of the Materials (in accordance with the provisions of clause 5.5 above) until PRF Electrical is satisfied that it is safe for the installation to proceed. PRF Electrical may at its sole discretion agree to bring the premises up to a standard suitable for installation to proceed but all such Works undertaken and any additional Materials supplied shall be treated as a variation and be charged for in addition to the Price.

7. Access

- 7.1 The Customer shall ensure that PRF Electrical has clear and free access to the work site at all times to enable them to undertake the Works. PRF Electrical shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concreted or paved or grassed areas) unless due to the negligence of PRF Electrical.

8. Underground Locations

- 8.1 Prior to PRF Electrical commencing any work the Customer must advise PRF Electrical of the precise location of all underground services on the site and clearly mark the same. The underground mains & services the Customer 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 site.
- 8.2 Whilst PRF Electrical will take all care to avoid damage to any underground services the Customer agrees to indemnify PRF Electrical 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 8.1.

9. Customer's Responsibilities

- 9.1 The Customer acknowledges that in the event asbestos or any other toxic substances are discovered at the worksite that it is their responsibility to ensure the safe removal of the same. The Customer further agrees to indemnify PRF Electrical against any costs incurred by PRF Electrical as a consequence of such discovery. Under no circumstances will PRF Electrical handle removal of asbestos product.
- 9.2 The Customer acknowledges that it is their responsibility to ensure that all Materials, plant or equipment which PRF Electrical is required to install (or to connect any of its Materials to) are of the correct type, size, rating, standard, quality, colour and finish, conform with all relevant Australian standards and local statutory requirements, and are as specified in the specifications, drawings and plans upon which PRF Electrical based the quotation on and therefore, the Customer agrees to indemnify PRF Electrical against any costs incurred by PRF Electrical in rectifying such errors if required.

10. Title

- 10.1 PRF Electrical and the Customer agree that ownership of the Materials shall not pass until:
- (a) the Customer has paid PRF Electrical all amounts owing to PRF Electrical; and
 - (b) the Customer has met all of its other obligations to PRF Electrical.
- 10.2 Receipt by PRF Electrical 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.
- 10.3 It is further agreed that:
- (a) until ownership of the Materials passes to the Customer in accordance with clause 10.1 that the Customer is only a bailee of the Materials and unless the Materials have become fixtures must return the Materials to PRF Electrical on request.
 - (b) the Customer holds the benefit of the Customer's insurance of the Materials on trust for PRF Electrical and must pay to PRF Electrical the proceeds of any insurance in the event of the Materials being lost, damaged or destroyed.
 - (c) the production of these terms and conditions by PRF Electrical shall be sufficient evidence of PRF Electrical's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with PRF Electrical to make further enquiries.
 - (d) the Customer must not sell, dispose, or otherwise part with possession of the Materials other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Materials then the Customer must hold the proceeds of any such act on trust for PRF Electrical and must pay or deliver the proceeds to PRF Electrical on demand.
 - (e) the Customer should not convert or process the Materials or intermix them with other goods but if the Customer does so then the Customer holds the resulting product on trust for the benefit of PRF Electrical and must sell, dispose of or return the resulting product to PRF Electrical as it so directs.
 - (f) unless the Materials have become fixtures the Customer irrevocably authorises PRF Electrical to enter any premises where PRF Electrical believes the Materials are kept and recover possession of the Materials.
 - (g) PRF Electrical may recover possession of any Materials in transit whether or not delivery has occurred.
 - (h) the Customer shall not charge or grant an encumbrance over the Materials nor grant nor otherwise give away any interest in the Materials while they remain the property of PRF Electrical.
 - (i) PRF Electrical may commence proceedings to recover the Price of the Materials sold notwithstanding that ownership of the Materials has not passed to the Customer.

11. Personal Property Securities Act 2009 ("PPSA")

- 11.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 11.2 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Materials that have previously been supplied and that will be supplied in the future by PRF Electrical to the Customer.
- 11.3 The Customer 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 PRF Electrical 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 11.3ai or 11.3aai;
 - (b) indemnify, and upon demand reimburse, PRF Electrical 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 Materials charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of PRF Electrical;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Materials in favour of a third party without the prior written consent of PRF Electrical; and
 - (e) immediately advise PRF Electrical of any material change in its business practices of selling the Materials which would result in a change in the nature of proceeds derived from such sales.

- 11.4 PRF Electrical and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 11.5 The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 11.6 The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 11.7 Unless otherwise agreed to in writing by PRF Electrical, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.
- 11.8 The Customer shall unconditionally ratify any actions taken by PRF Electrical under clauses 11.3 to 11.5.
- 11.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

12. Security and Charge

- 12.1 In consideration of PRF Electrical agreeing to supply the Materials, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 12.2 The Customer indemnifies PRF Electrical from and against all PRF Electrical's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising PRF Electrical's rights under this clause.
- 12.3 The Customer irrevocably appoints PRF Electrical and each director of PRF Electrical as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Customer's behalf.

13. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 13.1 The Customer must inspect all Materials on delivery (or the Works on completion) and must within seven (7) days of delivery notify PRF Electrical in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Materials/Works as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow PRF Electrical to inspect the Materials or to review the Works provided.
- 13.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 13.3 PRF Electrical acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 13.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, PRF Electrical makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Materials/Works. PRF Electrical's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 13.5 If the Customer is a consumer within the meaning of the CCA, PRF Electrical's liability is limited to the extent permitted by section 64A of Schedule 2.
- 13.6 If PRF Electrical is required to replace any Materials under this clause or the CCA, but is unable to do so, PRF Electrical may refund any money the Customer has paid for the Materials.
- 13.7 If PRF Electrical is required to rectify, re-supply, or pay the cost of re-supplying the Works under this clause or the CCA, but is unable to do so, then PRF Electrical may refund any money the Customer has paid for the Works but only to the extent that such refund shall take into account the value of Works and Materials which have been provided to the Customer which were not defective.
- 13.8 If the Customer is not a consumer within the meaning of the CCA, PRF Electrical's liability for any defect or damage in the Materials is:
 - (a) limited to the value of any express warranty or warranty card provided to the Customer by PRF Electrical at PRF Electrical's sole discretion;
 - (b) limited to any warranty to which PRF Electrical is entitled, if PRF Electrical did not manufacture the Materials;
 - (c) otherwise negated absolutely.
- 13.9 Subject to this clause 13, returns will only be accepted provided that:
 - (a) the Customer has complied with the provisions of clause 13.1; and
 - (b) PRF Electrical has agreed that the Materials are defective; and
 - (c) the Materials are returned within a reasonable time at the Customer's cost (if that cost is not significant); and
 - (d) the Materials are returned in as close a condition to that in which they were delivered as is possible.
- 13.10 Notwithstanding clauses 13.1 to 13.9 but subject to the CCA, PRF Electrical shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
 - (a) the Customer failing to properly maintain or store any Materials;
 - (b) the Customer using the Materials for any purpose other than that for which they were designed;
 - (c) the Customer continuing to use any Materials after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) interference with the Works by the Customer or any third party without PRF Electrical's prior approval;
 - (e) the Customer failing to follow any instructions or guidelines provided by PRF Electrical;
 - (f) fair wear and tear, any accident, or act of God.
- 13.11 Notwithstanding anything contained in this clause if PRF Electrical is required by a law to accept a return then PRF Electrical will only accept a return on the conditions imposed by that law.

14. Default and Consequences of Default

- 14.1 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 PRF Electrical's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 14.2 If the Customer owes PRF Electrical any money the Customer shall indemnify PRF Electrical from and against all costs and disbursements incurred by PRF Electrical in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, PRF Electrical's collection agency costs, and bank dishonour fees).
- 14.3 Without prejudice to any other remedies PRF Electrical may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions PRF Electrical may suspend or terminate the supply of Works to the Customer. PRF Electrical will not be liable to the Customer for any loss or damage the Customer suffers because PRF Electrical has exercised its rights under this clause.
- 14.4 Without prejudice to PRF Electrical's other remedies at law PRF Electrical shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to PRF Electrical shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to PRF Electrical becomes overdue, or in PRF Electrical's opinion the Customer will be unable to make a payment when it falls due;
 - (b) the Customer becomes insolvent or bankrupt, 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
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

15. Compliance with Laws

- 15.1 The Customer and PRF Electrical shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Works.
- 15.2 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 2002. All of the cabling work will comply with the Australian and New Zealand Wiring standards.
- 15.3 The Customer shall obtain (at the expense of the Customer) all licenses and approvals that may be required for the Works.
- 15.4 The Customer agrees that the site will comply with any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation.

16. Cancellation

- 16.1 PRF Electrical may cancel any contract to which these terms and conditions apply or cancel delivery of Works at any time before the Works are commenced by giving written notice to the Customer. On giving such notice PRF Electrical shall repay to the Customer any sums paid in respect of the Price, less any amounts owing by the Customer to PRF Electrical for Works already performed. PRF Electrical shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 16.2 In the event that the Customer cancels the delivery of Works the Customer shall be liable for any and all loss incurred (whether direct or indirect) by PRF Electrical as a direct result of the cancellation (including, but not limited to, any loss of profits).
- 16.3 Cancellation of orders for products made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or an order has been placed.

17. Dispute Resolution

- 17.1 If a dispute arises between the parties to this contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:
- (a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and
 - (b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.

18. Privacy Act 1988

- 18.1 The Customer agrees for PRF Electrical to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by PRF Electrical.
- 18.2 The Customer agrees that PRF Electrical may exchange information about the Customer 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 for the following purposes:
- (a) to assess an application by the Customer; and/or
 - (b) to notify other credit providers of a default by the Customer; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - (d) to assess the creditworthiness of the Customer.

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The Customer understands that the information exchanged can include anything about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the Privacy Act 1988.

- 18.3 The Customer consents to PRF Electrical being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
- 18.4 The Customer agrees that personal credit information provided may be used and retained by PRF Electrical for the following purposes (and for other purposes as shall be agreed between the Customer and PRF Electrical or required by law from time to time):
- (a) the provision of Works; and/or
 - (b) the marketing of Works by PRF Electrical, its agents or distributors; and/or
 - (c) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Works; and/or
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
 - (e) enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Works.
- 18.5 PRF Electrical may give information about the Customer to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Customer;
 - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.
- 18.6 The information given to the credit reporting agency may include:
- (a) personal particulars (the Customer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
 - (b) details concerning the Customer's application for credit or commercial credit and the amount requested;
 - (c) advice that PRF Electrical is a current credit provider to the Customer;
 - (d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
 - (e) that the Customer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
 - (f) information that, in the opinion of PRF Electrical, the Customer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Customer's credit obligations);
 - (g) advice that cheques drawn by the Customer for one hundred dollars (\$100) or more, have been dishonoured more than once;
 - (h) that credit provided to the Customer by PRF Electrical has been paid or otherwise discharged.

19. Construction Contracts Act 2004

- 19.1 At PRF Electrical's sole discretion, if there are any disputes or claims for unpaid Materials and/or Works then the provisions of the Construction Contracts Act 2004 may apply.
- 19.2 Nothing in this agreement is intended to have the affect of contracting out of any provisions of the Construction Contracts Act 2004 of Western Australia, except to the extent permitted by the Act where applicable.

20. General

- 20.1 The failure by PRF Electrical to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect PRF Electrical'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.
- 20.2 These terms and conditions and any contract to which they apply shall be governed by the laws of the state of Western Australia in which PRF Electrical has its principal place of business, and are subject to the jurisdiction of the courts in that state.
- 20.3 Subject to clause 13 PRF Electrical shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by PRF Electrical of these terms and conditions (alternatively PRF Electrical's liability shall be limited to damages which under no circumstances shall exceed the Price of the Works).
- 20.4 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by PRF Electrical nor to withhold payment of any invoice because part of that invoice is in dispute.
- 20.5 PRF Electrical may license or sub-contract all or any part of its rights and obligations without the Customer's consent.
- 20.6 The Customer agrees that PRF Electrical may amend these terms and conditions at any time. If PRF Electrical makes a change to these terms and conditions, then that change will take effect from the date on which PRF Electrical notifies the Customer of such change. The Customer will be taken to have accepted such changes if the Customer makes a further request for PRF Electrical to provide any Works to the Customer.
- 20.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 20.8 The Customer warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.