

I&R Electrical Solutions – Terms and Conditions

1. General

- 1.1 This Agreement sets out the terms and conditions governing the agreement between The Trustee for I&R Electrical Solutions Trust trading as I&R Electrical Solutions (ABN 19 321 462 245) ('**I&R Electrical**') and the customer ('**Customer**').
- 1.2 By signing this Agreement, the Customer shall be deemed to have received, read, understood and accepted these terms and conditions, including the Quotation.
- 1.3 Upon acceptance of these terms and conditions by the Customer, the terms and conditions are irrevocable and can only be rescinded in accordance with this Agreement.
- 1.4 I&R Electrical reserves the right to amend these terms and conditions at any time without prior notice.

2. Definitions

- 2.1 'COD' is an abbreviation of cash on delivery and means the Customer is required to pay any charges and costs that become due and payable under this Agreement in full (with no deduction or set off), on or prior to, the completion of the Services;
- 2.2 'Customer' means the company, partnership, sole trade, trustee or individual and any person acting on behalf of and with the authority of the Customer placing the order for Services and/or Goods to be supplied by I&R Electrical to the Customer;
- 2.3 'Force Majeure Event' means any event or circumstance, regardless of whether it was foreseeable, that was not caused by I&R Electrical and which prevents I&R Electrical from reasonably complying with, or performing, any of its obligations under this Agreement;
- 2.4 'Goods' means any goods, products or materials supplied by I&R Electrical to the Customer (or ordered by the Customer but not yet supplied) required for the completion of the Services;
- 2.5 'PMSI' means a purchase money security interest and has the meaning given in section 14 of the PPSA;
- 2.6 'PPSA' means the *Personal Property Securities Act 2009* (Cth);
- 2.7 'PPSR' means the Personal Properties Securities Register established under section 147 of the PPSA;
- 2.8 'Price' means the cost of the Goods and Services to be supplied by I&R Electrical as agreed with the Customer, subject to this Agreement;

- 2.9 'Quotation' means the description of the Services to be undertaken at the Site and an estimate of the cost, attached to this Agreement;
- 2.10 'Security Interest' has the meaning given in section 12 of the PPSA;
- 2.11 'Services' means any services supplied by I&R Electrical to the Customer in accordance with this Agreement;
- 2.12 'Site' means the site described in the Quotation at which the Services are to be provided.

3. Quotation

- 3.1 The pricing estimate in the Quotation will only be valid for a period of thirty (30) days from the date of the Quotation.
- 3.2 I&R Electrical reserves the right to make any changes to the Quotation if a variation to the Services is requested by the Customer, or the Quotation has not been fulfilled within 30 days of the date of the Quotation.
- 3.3 If there is any error or omission in the Quotation, I&R Electrical reserves the right to change the Quotation, including the pricing estimate.
- 3.4 While I&R Electrical will make all reasonable efforts to complete the Services to schedule and within estimate, the Quotation is subject to change at the reasonable discretion of I&R Electrical, in order to reasonably and properly complete the Services.
- 3.5 I&R Electrical reserves the right to vary the pricing estimate of the Quotation, should it become impractical to achieve the cost of the Quotation for reasons that are beyond the reasonable control of I&R Electrical.
- 3.6 Any additional work required to be undertaken by I&R Electrical as a consequence of this paragraph 3 will be charged at a quoted rate (if specified) or otherwise a price mutually agreed between the parties.
- 3.7 Any variation to the Quotation in accordance with this Agreement will permit I&R Electrical to cease any works until I&R Electrical and the Customer agree to the changes.

4. Booking

- 4.1 Upon acceptance of this Agreement, I&R Electrical will reserve the date(s) and time(s) agreed with the Customer to perform the Services at the Site.
- 4.2 I&R Electrical reserves the right to change the date(s) and time(s) for performance of the

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Services for reasons that are reasonably outside of its control.

5. Cancellation

- 5.1 While I&R Electrical will use all reasonable endeavours to provide the Services to the Customer at the date(s) and time(s) agreed, I&R Electrical will not be liable for matters arising from the cancellation of the Services by it for issues reasonably outside of the control of I&R Electrical.
- 5.2 In the event that I&R Electrical is unable to provide the Services at a previously agreed time, I&R Electrical will endeavour to provide written notice to the Customer as soon as reasonably practicable.
- 5.3 In the event the Customer wishes to cancel the Services, the Customer must inform I&R Electrical of the request in writing.
- 5.4 Cancellation of the Services by the Customer will result in the Customer being liable to pay the cost of labour and any expenses incurred, or due to be incurred, by I&R Electrical up to and including the date of I&R Electrical receiving written notice of the Customer's cancellation request.

6. Scope of Services

- 6.1 I&R Electrical will complete the Services described in the Quotation in a good and workman like manner and shall have no obligation to undertake any further works outside the scope specified in the Quotation, unless otherwise agreed in writing between the parties.
- 6.2 Unless stated otherwise, the costs quoted assume standard working hours between the hours of 7:00am to 5:00pm Monday to Friday (excluding public holidays). Work required outside these hours may attract out of hours premium rates.
- 6.3 In the event the Customer wishes to alter the scope of the Services after entering into this Agreement, I&R Electrical reserves the right to vary the cost of providing the Services, including for the cost of providing Goods.
- 6.4 While I&R Electrical will endeavour to accommodate any reasonable request by the Customer to alter the scope of the Services after the date of this Agreement, I&R Electrical reserves the right to reject such request at its absolute discretion.
- 6.5 The Customer acknowledges provision of the Services may require the disconnection or isolation of parts of Site systems to undertake works.

6.6 The Customer accepts full responsibility for the resolution of any problems and for delays and additional costs which may result from the disconnection or isolation of any part of Site systems on which the Services (or any part thereof) are to be performed.

6.7 Where the Services involve works to extend or modify existing electrical circuits, the Quotation assumes that the existing installation is in adequate condition and complies with current regulations. Any works required to bring the existing installation up to standard will be at additional cost, to be charged at a price mutually agreed between the parties or at a quoted rate.

6.8 Where coverings require lifting to permit concealed installation, no additional charge will be made unless otherwise agreed, with I&R Electrical using reasonable endeavours to avoid damage and to refit to an acceptable standard.

6.9 Unless specified in the Quotation, the price estimate in the Quotation assumes the Services will be provided in an environment free of hazardous material. The Customer accepts full responsibility for the resolution of any problems and for delays and additional costs which may result from the presence of hazardous materials in or about the Site on which the Services (or any part thereof) are to be performed.

7. The Site

7.1 I&R Electrical agrees to perform the Services at the Site described in the Quotation.

7.2 The Customer warrants and represents they are the legal owner of the Site, or otherwise holds the authority to engage and permit I&R Electrical to perform the Services at the Site.

7.3 The Customer will assume the risk for any physical conditions and characteristics of the Site that differ materially from what was observable at the date of the first Site inspection (if any) by I&R Electrical.

7.4 The Customer will ensure I&R Electrical will have reasonable, unrestricted access to the Site at all agreed times for the duration of the performance of the Services.

7.5 The Customer shall make available any utility services as advised by I&R Electrical, which are reasonably necessary in order to perform the Services.

7.6 The Customer shall inform I&R Electrical personnel of all general and specific safety requirements as and when they arise in relation to the Site and any incident or potential hazard that may cause harm to I&R Electrical's personnel.

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8. On Site Goods and Materials

- 8.1 All Goods and materials delivered to the Site become the Customer's responsibility on delivery. I&R Electrical accepts no responsibility for theft, loss, damage or expense for materials or goods situated at the Site for any reason.
- 8.2 I&R Electrical shall not be liable for any delay in the completion of the Services due to the failure of a supplier to deliver materials to the Site in a timely manner.
- 8.3 Where the Customer intends to independently purchase and arrange delivery of any materials that in any way relate to the provision of the Services, the Customer must provide written notice to I&R Electrical prior to the commencement of the Services.

9. Completion of Services

- 9.1 I&R Electrical undertakes to use all reasonable endeavours to complete the Services within the timeframe specified in the Quotation.
- 9.2 Any date or time quoted for delivery or completion of the Services is an estimate only and while I&R Electrical shall endeavour to complete the Services at a time or times required by the Customer, failure to do so shall not confer any right of cancellation, termination or refusal of delivery on the Customer.
- 9.3 I&R Electrical will not be liable for matters or costs arising from any delay in completion of the Services due to issues outside the reasonable control of I&R Electrical.
- 9.4 I&R Electrical reserves the right to reschedule the Services (or any part thereof) in its sole discretion when conditions are deemed unsafe or unsuitable.

10. Customer Responsibilities

- 10.1 The Customer will be responsible for obtaining any planning consents or approvals, paying all fees, charges or deposits and meeting any legal or regulatory obligations required for I&R Electrical to perform the Services, unless otherwise agreed by the parties in writing prior to the commencement of the Services.
- 10.2 The Customer will be responsible for informing I&R Electrical as to the presence and location of any utility and service lines located on the Site to the best of the Customer's knowledge, prior to the commencement of the Services.

11. Notification of Defects

- 11.1 The Customer will inspect the Services and inform I&R Electrical in writing of any issues,

defects or concerns regarding the Services within seven (7) days of the relevant works being performed.

- 11.2 Upon receiving notice from the Customer in accordance with paragraph 11.1, I&R Electrical will undertake any reasonable remedial works that it deems are warranted at its cost as soon as practicable.
- 11.3 The Customer shall be deemed to have accepted practical completion of the Services after the expiration of seven (7) days from the date of completion by I&R Electrical without receiving notice from the Customer under paragraph 11.1, after which time I&R Electrical will have no obligation to perform any remedial services, other than to the extent permitted and required by law.

12. Sub-Contractors

The Customer acknowledges and agrees that I&R Electrical may engage sub-contractors to undertake works during provision of the Services in its absolute discretion.

13. Third Parties

I&R Electrical will not be liable for structural considerations, functionality, appearance of finish features, or overall management of works where a third party has provided advice, drawings, material, products, systems or supervision at the Customer's request.

14. Payment

- 14.1 The Customer acknowledges and agrees that I&R Electrical may require the payment of a deposit prior to the commencement of the Services. The deposit (if required) will be specified in the Quotation.
- 14.2 I&R Electrical is entitled to set off against the deposit (if any) any expenses or loss incurred by I&R Electrical arising from the cancellation of the Services by the Customer.
- 14.3 The Customer agrees that I&R Electrical may render tax invoices for payment of the balance of the amount specified in the Quotation on the completion of the Services.
- 14.4 The Customer agrees that I&R Electrical may seek progress payments in accordance with the *Building and Construction Industry Security of Payment Act 2009 (SA)*.
- 14.5 Payments shall be made by the Customer in accordance with I&R Electrical's terms of trade (as specified on the tax invoice) and are to be made by cash, cheque, EFT or credit card. I&R Electrical may require the Customer to pay on COD terms at its sole discretion, by agreement in writing.

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- 14.6 In the event I&R Electrical does not receive payment within its terms of trade, I&R Electrical is entitled to immediately suspend its provision of the Services until payment of the outstanding balance is received in full.
- 14.7 I&R Electrical is entitled to charge a late payment fee of 2.5% of the total amount owing if it does not receive payment within its terms of trade, in its absolute discretion.
- 14.8 Any amounts received by I&R Electrical may be applied at I&R Electrical's discretion; first against interest, fees, charges and legal expenses; second towards any amount that the Customer owes to I&R Electrical from time to time for the performance of the Services.
- 14.9 Without prejudice to I&R Electrical's remedies at law, I&R Electrical shall be entitled to cancel all or any part of the Services not yet completed and all amounts owing by the Customer to I&R Electrical shall, whether or not due for payment, become due immediately if:
- 14.9.1 the Customer becomes bankrupt or insolvent, executes a personal insolvency agreement, enters into liquidation, administration, receivership, enters into an arrangement with creditors or ceases to carry on business;
- 14.9.2 any money payable to I&R Electrical becomes overdue, or in I&R Electrical's opinion the Customer will be unable to make a payment when it falls due.
- 14.10 Where I&R Electrical has supplied Goods to the Customer, I&R Electrical will be entitled to enter the Site and remove all Goods in the event of non-payment.
- 14.11 The Customer agrees that it may not set off or deduct from any monies due (or which may become due) to I&R Electrical under this Agreement.
- 14.12 The Customer is responsible for and hereby indemnifies I&R Electrical from all fees, costs and expenses charged by third parties that are engaged in connection with the provision of the Services.
- 14.13 The Customer indemnifies I&R Electrical in relation to any cost or expense (including but not limited to legal fees) incurred by I&R Electrical in the event it is required to commence debt recovery proceedings to recover any unpaid monies owing to I&R Electrical.
- shall remain with I&R Electrical until it has received payment in full of all monies owing by the Customer.
- 15.2 Until I&R Electrical has received payment in full of all monies owing to it by the Customer, I&R Electrical reserves the following rights:
- 15.2.1 legal and beneficial ownership of the Goods;
- 15.2.2 the right to enter the Site and retake possession of the Goods;
- 15.2.3 the right to keep or resell any Goods repossessed under sub-clause 15.2.2; and
- 15.2.4 any other rights it may have at law or under the PPSA.
- 15.3 I&R Electrical will not be liable for any costs, damages, expenses or losses (including consequential loss) incurred by the Customer or any third party as a result of any action taken to repossess the Goods.
- 15.4 If the Goods are attached, fixed or incorporated into any property of the Customer, title in the Goods shall remain with I&R Electrical until the Customer has made payment for all monies owed to I&R Electrical.
- 15.5 Until I&R Electrical has received payment for the Goods in full, the Customer acknowledges that I&R Electrical has a PMSI which attaches over the Goods and their proceeds and a Security Interest in relation to other monies owed by the Customer.
- 15.6 Upon agreeing to these terms and conditions, the Customer acknowledges and agrees this Agreement constitutes a Security Agreement for the purposes of the PPSA.
- 15.7 The Customer undertakes to do anything (such as obtaining consents, producing receipts etc.) which I&R Electrical requests and considers reasonably necessary for the purposes of:
- 15.7.1 ensuring that a PMSI and/or Security Interest is enforceable, perfected and effective;
- 15.7.2 enabling I&R Electrical to apply for registration of the PMSI and/or Security Interest so that it has the priority required by I&R Electrical.

15. Retention of Title

- 15.1 While risk in the Goods passes to the Customer on delivery, legal and beneficial title in the Goods

16. Cessation of Services

- 16.1 I&R Electrical's discovery of new information, changes to agreed circumstances or other factors which may prejudice the ability of I&R Electrical to deliver the Services may result in I&R Electrical

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ceasing to provide the Services, in its absolute discretion.

- 16.2 Should I&R Electrical cease to provide the Services, any funds of the Customer held by I&R Electrical will be returned to the Customer, excluding the fair market value for the services already provided to the Customer and the cost of any Goods or materials.

17. Warranties

- 17.1 I&R Electrical warrants its installation work to be defect free for a period of twelve (12) months from completion of the Services. Such cover does not extend to goods not supplied by I&R Electrical, physical damage to goods or any instance where the original installation has been altered or tampered with subsequently by the Customer or third parties without I&R Electrical's express written consent.
- 17.2 I&R Electrical will exercise its reasonable care and skill in completing the Services, including the installation of any Goods.
- 17.3 I&R Electrical warrants that Goods supplied to the Customer in connection with the Services are of an acceptable quality at the time they are provided.
- 17.4 The Services will comply with applicable Building Regulations in force at the time of the works.
- 17.5 In the event the Customer seeks to have defective Goods replaced, the Goods must be returned to I&R Electrical within twelve (12) months of the Customer receiving them.
- 17.6 Where I&R Electrical is requested to conduct an inspection outside of its premises, I&R Electrical may charge the Customer for all reasonable costs incurred including labour, travelling and other out-of-pocket expenses if the fault or defect is deemed to be outside the scope of this warranty.
- 17.7 In respect of any claim, I&R Electrical will not be liable to compensate the Customer for any delay in assessing the Customer's claim or replacing or remedying the Services or Goods.
- 17.8 This warranty will not apply to any defect or damage caused (whether wholly or partly) or arising through the failure of the Customer to reasonably maintain any works or Goods, follow instructions or guidelines provided by I&R Electrical or by the Customer's negligence.

18. Indemnity and Exclusion of Liability

- 18.1 Subject to clause 18.3, all guarantees, terms, conditions, warranties, undertakings, inducements or representations whether expressed or implied, statutory or otherwise

relating to this Agreement or its subject matter are excluded to the maximum extent permitted by law.

- 18.2 Nothing in this Agreement excludes, restricts or modifies any right or remedy or any guarantee, term, condition, warranty, undertaking, inducement or representation implied or imposed by any legislation which cannot be lawfully excluded or limited.
- 18.3 Where any legislation implied or imposes a guarantee, term, condition, warranty, undertaking, inducement or representation in relation to this Agreement and I&R Electrical is not able to exclude that guarantee, term, condition, warranty, undertaking, inducement or representation, but are able to limit our liability for breach of such liability, then such liability is limited to:
- 18.3.1 in the case of Goods, to repair or replace the Goods or the supply of substitute goods (or the cost of doing so);
- 18.3.2 in the case of Services, the supplying of Services again or the payment of the cost of having this service supplied again.
- 18.4 I&R Electrical's maximum aggregate liability for all claims under or relating to this Agreement or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity based on fundamental breach or breach for fundamental term or on any other basis is limited to an amount equal to the fees paid by the Customer to I&R Electrical.
- 18.5 The Customer is liable for and indemnifies I&R Electrical against all liability, claims, damage, loss (including consequential loss), expenses or costs (including without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against I&R Electrical and any environmental loss, cost, damage or expense) in respect of personal injury, damage to property or a claim by a third party in respect of the Customer's breach of the terms of this Agreement.
- 18.6 The Customer is responsible for ensuring the Site is insured for the duration of the Services.
- 18.7 Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties and survive termination, completion or expiration of this Agreement.

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19. Termination

- 19.1 Either party may terminate the Services immediately by giving notice to the other party, if:
- 19.1.1 that other party breaches any term of the Agreement and fails to remedy the breach within seven (7) days of written notification of the breach;
 - 19.1.2 that other party becomes bankrupt, insolvent, executes a personal insolvency agreement, enters into liquidation, administration, receivership or ceases to carry on a business.
- 19.2 I&R Electrical may terminate the Agreement for any other reason on 24 hour's notice.
- 19.3 Without prejudice to any other remedies I&R Electrical may have, if at any time the Customer is in breach of any obligation (including payment terms) of this Agreement and I&R Electrical terminates the Services, I&R Electrical will not be liable for any loss (including consequential loss) or damage the Customer suffers due to I&R Electrical exercising its rights under this clause.
- 19.4 These rights of termination are in addition to any other rights either party may have under this Agreement and does not exclude any right or remedy under law or equity.

20. Promotion

The Customer hereby grants or assigns to I&R Electrical an irrevocable, unrestricted and royalty free licence to take, use, alter and publish photographs of the works conducted at the Site, for the purpose of promoting I&R Electrical's services to the general public.

21. Intellectual Property

- 21.1 All diagrams and notes provided to the Customer by I&R Electrical in connection with the Services are for design purposes only and any measurements or representations are intended for use in support of the design only and are not suitable to be used for architectural or construction purposes.
- 21.2 I&R Electrical retains ownership of all intellectual property rights arising out of the design works created by I&R Electrical in the course of providing the Services.

22. Performance

- 22.1 The performance of this Agreement by I&R Electrical shall be contingent upon acts of God, flood, fire, warfare, government laws or regulations, electrical failure, strikes by suppliers, epidemic, pandemic and or any other conditions beyond the reasonable control of I&R Electrical.

- 22.2 I&R Electrical will not be responsible for any default, loss (including consequential loss), damage, liability or expenses due to any Force Majeure Event.

23. Severability

If any provision of this Agreement is held to be invalid or unenforceable at law, the validity of this Agreement as a whole will not be affected, and the other provisions of the Agreement will remain in full force and effect.

24. Amendments

This Agreement will be recognised as the entirety of the Agreement between I&R Electrical and the Customer. Only those changes or modifications specifically placed in writing, attached, dated and signed by the parties shall be recognised as valid amendments.

25. No Waiver of Rights

No delay or omission by a party to exercise any right, power or remedy available to that party as a result of a continuing breach or default under this Agreement will impair any such right, power or remedy, nor will it be construed to be a waiver of that party's rights to take action or make a claim in respect of a continuing breach.

26. Jurisdiction

This Agreement shall be construed in accordance with the laws of South Australia and, where applicable, the Commonwealth of Australia, and the Customer submits to the non-exclusive jurisdiction of the courts of South Australia.

27. General

- 27.1 I&R Electrical may assign, licence or sub-contract all or any part of this Agreement without the Customer's consent.
- 27.2 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.

The Customer has read and understood this Agreement and accepts the terms and conditions described herein.

DATED the day of 2022

.....
Customer (signature)

.....
(print name)