

1.0 DEFINITIONS

CAC Act means the *Competition and Consumer Act 2010 (Cth)*, as amended.

Consequential Loss means any special, indirect or consequential loss or damage of any nature, including but not limited to any loss of income, profit, revenue, business, goodwill, reputation, intellectual property, contracts or anticipated savings.

Customer means the party so named in Item 3 of the Particulars, and its employees, agents and contractors acting in those capacities.

Disclosed Purpose means a particular purpose for which the Customer acquires the Goods, where the Customer makes that purpose known to the Supplier or the manufacturer of the Goods, either expressly or by implication.

Excluded Defect means a defect that arose as a direct or indirect result of, or was caused or contributed to by, a breach or default by the Customer of clauses 8.0, 9.0, 10.0 or 11.0 of the Guarantee Terms and Conditions or the equivalent clauses in the Terms and Conditions or is the subject of one or more of the exclusions detailed in clause 12.0.

Excluded Goods means Goods which are not covered by the Guarantee, which is all Goods which are not expressly covered by the Guarantee, as detailed in clause 32.1.

Goods means the Goods supplied by the Supplier under the Terms and Conditions.

Guarantee means this JM Switchboards Reliability Guarantee, including the Particulars, and unless otherwise agreed in writing by the parties does not include any other documents or correspondence or communications exchanged by the parties.

Guarantee Commencement Date means the date on which the Term commences, and unless otherwise expressly stated, is the date of delivery of the Goods.

Guarantee Terms and Conditions means this document, the terms and conditions pursuant to which the Guarantee is provided.

Law means the relevant laws, including orders and awards of any court of competent jurisdiction or relevant legislative authority, Acts, rules and regulations (or such similar instruments) that may be applicable in connection with the supply of the Goods.

Losses means losses, damages, costs, expenses, charges, interest, fines, or penalties, including those arising as a result of claims, demands, actions, proceedings or suits by any person.

Major Failure means where Goods are unsafe and substantially unfit for normal purpose and cannot reasonably be made fit within a reasonable time.

Particulars means the Guarantee Particulars appearing at page 1 of the Guarantee.

Parties means the Customer and the Supplier together.

Supplier means Closedane Pty Ltd (ACN: 45 011 004 514) trading as JM SWITCHBOARDS and its authorised agents, employees and subcontractors.

Term means the length of time during which this Guarantee applies, as specified in Item 9 of the

Particulars, commencing on the date of manufacture of the Goods.

Terms and Conditions means the standard Supplier Terms and Conditions document pursuant to which the Goods are supplied by the Supplier to the Customer and are separate to the Guarantee Terms and Conditions.

2.0 APPLICATION OF TERMS AND CONDITIONS

2.1. The Customer acknowledges and agrees that:

- (a) the purpose and effect of the Guarantee is to provide for an extended period of time over which the Supplier may repair, rectify or remedy defects in Goods, or (in the Supplier's discretion) replace the Goods;
- (b) the Guarantee provides additional rights, entitlements and protections to the Customer, and may impose additional obligations and liabilities on the Supplier, above the minimum statutory thresholds and limitation periods provided under the CAC Act and the Law generally; and
- (c) the Guarantee is strictly limited to, and applies only to:
 - (i) switchboards manufactured and supplied by the Supplier (but covers other components included inside the switchboards not manufactured by the Supplier but required for the operation of the switchboard supplied by the Supplier); and
 - (ii) variable speed drives (**VSDs**) and variable frequency drives (**VFDs**), manufactured and supplied by the Supplier directly to the Customer.

(Goods Covered by the Guarantee)

- (d) the Guarantee excludes, and does not apply to:
 - (i) programmable logic controllers, remote telemetry units, radios, modems, power supplies, and capacitors;
 - (ii) Excluded Goods, which include the Goods in clause 2.1(d)(i) and which are all Goods that are not Goods Covered by the Guarantee as detailed in clause 2.1 (c) above; or
 - (iii) Items or components provided by the Customer for integration into the switchboards.
- (e) The Guarantee no longer applies where the Customer has sold, disposed of, transferred ownership or control of the Goods.
- (f) notwithstanding clause 2.1(c) and (d) above, the existing rights the Customer has or may have are not otherwise reduced.

2.2. Accordingly, the Customer acknowledges and agrees that the Guarantee will only apply if expressly agreed by the Parties in writing prior to the provision of those Goods, and will only apply and continue to apply if the following conditions are met:

- (a) The 'Reliability Guarantee' option section in the Particulars of the Terms and Conditions is marked 'Yes' (or words to that effect), and the

- Supplier confirms the Reliability Guaranteed applies when accepting the order in writing;
- (b) the Guarantee is fully executed by the Parties and returned to the Supplier; and
- (c) the Customer has paid all invoices and amounts owing to the Supplier in full.
- 2.3. To the extent of any inconsistency between the Terms and Conditions of the Guarantee and the Terms and Conditions, the Terms and Conditions prevail.
- 2.4. The Customer acknowledges and agrees that notwithstanding any notation, statement, representation or communication to the contrary on any purchase order, email, correspondence or documentation prepared or provided by the Customer or any other person or entity, the Terms and Conditions and the Terms and Conditions of the Guarantee prevail to the exclusion of all others.
- 2.5. The Customer warrants that it is solvent and is competent, empowered and authorised to enter into the Guarantee.
- 2.6. The Customer acknowledges and agrees that the Guarantee does not operate retrospectively and applies only to Goods supplied after the date the Parties entered into the Guarantee.
- 3.0 COMPETITION AND CONSUMER ACT**
- 3.1. The Parties acknowledge and agree that:
- (a) the CAC Act may apply to the supply of the Goods and may provide rights and remedies to the Customer as a result, in respect of the Goods;
- (b) to the extent that the CAC Act applies, the Terms and Conditions and Terms and Conditions of the Guarantee supplement the provisions of the CAC Act; and
- (c) nothing in the Terms and Conditions and Terms and Conditions of the Guarantee is an exclusion, restriction or modification of the rights the Customer may have under the CAC Act.
- 3.2. The Customer acknowledges and agrees that:
- (a) the Supplier has made no representation to the Customer, express or otherwise, as to whether the CAC Act applies to the Goods, or if it does apply, to what extent and in what manner; and
- (b) the Customer has had the opportunity to obtain independent legal advice regarding the Guarantee.
- 4.0 WARRANTY FOR GOODS**
- 4.1. **Goods not manufactured by the Supplier**
- The Parties acknowledge and agree that nothing in the Guarantee is an exclusion of or restriction on any rights the Customer may have under any applicable warranty or guarantee or under the CAC Act, for any Goods manufactured other than by the Supplier. The Supplier will use its best endeavours to provide reasonable assistance to the Customer in relation to any claim the Customer may have against the manufacturer of the Goods.
- 4.2. **Goods manufactured by the Supplier**
- The Supplier warrants that all Goods:
- (a) will comply with all requirements of the Terms and Conditions, Laws, and all Applicable Industry Codes;
- (b) are of merchantable quality and fit for their intended purpose and/or any Disclosed Purpose;
- (c) are free from defects and imperfections affecting performance;
- (d) are the property of the Supplier and that title will pass to the Customer upon payment in full; and
- (e) are not subject to any undisclosed securities.
- 5.0 GUARANTEE**
- 5.1. **Provision of Guarantee**
- Subject to clause 5.3 of the Guarantee, the Supplier agrees to provide the guarantee specified in this clause 5.0 for the duration of the Term, commencing on the Guarantee Commencement Date, in relation to Goods supplied by the Supplier.
- 5.2. **Scope of Guarantee**
- Subject to clause 5.1 and clause 5.3 of the Guarantee, the Supplier will, at its own cost:
- (a) Inspect the Goods within a reasonable time of being notified of a potential defect;
- (b) Identify any defects in the Goods (**Defect**);
- (c) Determine whether the Defect is an Excluded Defect;
- (d) Where the Defect identified with the Goods is not an Excluded Defect, the Supplier will:
- (i) in respect of a Defect that is not a Major Failure, repair the Goods to an acceptable standard, by returning the Goods to their normal working order; or
- (ii) in respect of a Defect that is a Major Failure, replace the Goods with new or equivalent Goods;
- (e) The Supplier may, in its absolute discretion, in lieu of performing in accordance with clause 5.2(d) of the Guarantee, make payment to the Customer of an amount equivalent to the cost of replacement or repair of the defective Goods.
- 5.3. **Application of Guarantee**
- The Customer acknowledges and agrees that the Guarantee given in this clause 5.0:
- (a) Does not apply to Excluded Defects; and
- (b) shall cease and become void if the Customer is in default under clauses 8.0, 9.0, 10.0 or 11.0 of the Guarantee or the equivalent clauses in the Terms and Conditions, or if the Defect is an Excluded Defect or was caused or contributed to by the Customer.
- 5.4. **Transport and Travel Costs Excluded**
- The Customer acknowledges and agrees that the Customer is responsible for and must pay:
- (a) All freight and transport costs relating to repaired or replacement Goods; and

- (b) The Supplier's travel, accommodation and related costs of and incidental to travelling to and from the Site for the purposes of the Guarantee.

Supplier's manuals, or Supplier's recommendations;

6.0 CUSTOMER INFORMATION

6.1. The Parties acknowledge that the Customer may provide certain information, measurements, specifications, designs, quantities, requirements, needs, or other such related material to the Supplier to enable the Supplier to supply the Goods (**Customer Information**).

6.2. The Customer must:

- (a) notify the Supplier in writing of any specific requirements relating to the Goods;
- (b) notify the Supplier in writing of the Disclosed Purpose for which the Goods will be used; and
- (c) provide the Supplier with sufficient Customer Information to enable the Supplier to provide the Goods.

6.3. In respect of such Customer Information:

- (a) the Customer warrants that:
- (i) it has verified the accuracy of the Customer Information; and
- (ii) the Customer Information is accurate for the purposes of the provision of the Goods;
- (b) the Parties acknowledge and agree that:
- (i) the Supplier is not reasonably able to verify the Customer Information itself, and is therefore entitled to rely on the accuracy of the Customer Information;
- (ii) the Supplier relied on the accuracy of the Customer Information in the provision of the Goods;
- (iii) the Supplier is not liable whatsoever to the Customer for Losses or Consequential Loss, arising directly or indirectly as a result of the Customer's breach of the warranty in clause 6.3(a) of the Guarantee; and
- (iv) the Customer releases and indemnifies the Supplier in respect of any and all claims, suits, demands or actions in relation to any losses, damages or costs arising directly or indirectly from the Customer's breach of the warranty in clause 6.3(a) of the Guarantee.

- (d) inadequately or improperly store, house, cover, maintain or protect the Goods from environmental or weather conditions, causing deterioration;
- (e) modify or alter the Goods unless the Supplier:
- (i) provides its prior written consent;
- (ii) approves the modification or alteration methodology; and
- (iii) inspects the modifications or alterations after completion and approves the continued application of the Guarantee.
- (f) integrate into the Goods, additional goods, materials, spare parts or consumables other than those recommended for such use by the Supplier;
- (g) repair, or have the Goods repaired, other than by a competent, qualified repairer authorised by the Supplier;
- (h) place, store or affix the Goods on structure unable to withstand the installation of the Goods or connect with any electrical connections (including, but not limited to, meter boxes, main switches, circuit breakers, and electrical cables) incapable of handling the Goods once installed; and
- (i) fail to provide Access or to make the Goods available for inspection or repair within a reasonable time after the Customer became or should have become aware of a defect or issue.

7.2. The Customer acknowledges and agrees that in respect of the Goods, to the extent permissible under the Law the Supplier is immediately and irrevocably released from any claim, action or suit the Customer has, had or may have under the Terms and Conditions or against the Supplier, where and to the extent the Customer has not complied with clause 7.1 of the Guarantee.

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

8.0 ACCESS

8.1. The Customer acknowledges that the Supplier may require physical access to the Customer's site and/or electronic systems, programs, documents, records, maintenance records and checklists, or files in order to inspect and identify defects and the causes of defects and then discharge any obligations the Supplier may have under the Guarantee ("**Access**").

8.2. The Customer will:

- (a) provide clear and free Access to the Supplier as and when requested by the Supplier;
- (b) provide a delineated, barricaded work area for the Supplier, for any inspections, work or services performed on site;
- (c) obtain all necessary permits required for the Supplier to undertake inspections, work or services on site;

7.0 AGREED USE & DEALINGS WITH THE GOODS

7.1. In relation to Goods provided by the Supplier to the Customer, the Customer must not:

- (a) apply or use the Goods other than for their intended purpose(s);
- (b) misuse, damage, or use the Goods other than in accordance with any Applicable Industry Code, manual or industry standard;
- (c) use or operate the Goods other than in accordance with the Supplier's specifications,

- (d) supply such water and/or electricity to the Supplier as required for the Supplier to undertake any work on site.
- 8.3. The Supplier will avail itself of the Access solely for the purposes of inspections, defect identification, discharging the obligations under the Guarantee and the Terms and Conditions.
- 8.4. The Supplier shall not be liable for any disruption or delay caused to the Customer as a result of the Customer giving the Supplier Access.
- 8.5. The Customer will bear its own costs of and incidental to providing the Access.
- 9.0 DEFAULT**
- 9.1. The Customer is and remains entitled to the benefit of the Guarantee to the extent that the Customer is not in default under the Terms and Conditions or the Guarantee.
- 9.2. Without prejudice to any remedy available to it at Law, where the Customer is in default under the Terms and Conditions or the Guarantee, the Supplier may terminate the Guarantee in whole or in part:
- (a) If, for defaults capable of remedy, the Supplier has given the Customer a notice to remedy the default, and the Customer has failed and/or refused and/or neglected to remedy the default for a period of seven (7) days from the service of the notice, on the giving of a written notice of termination to the Customer
- (b) For defaults not capable of remedy, on giving the Customer written termination notice.
- 9.3. For the avoidance of doubt, termination by the Supplier under this clause does not exclude, cancel or remove any rights or entitlements which the Customer accrued prior to the date on which the Customer fell into default or the date of termination.
- 9.4. In its absolute discretion, if the default relates to certain Goods, the Supplier may terminate the Guarantee only in respect of those distinct Goods, or the Supplier may terminate the Guarantee in full.
- 9.5. Without prejudice to any remedy available to it at Law, and without limiting the remainder of this clause 9.0, a Customer default includes where:
- (a) The Customer breached or is in default under clauses 6.0, 7.0 or 7.2 of the Guarantee or the equivalent clauses in the Terms and Conditions, or a combination thereof;
- (b) The Customer breached or is in default under a clause of the Terms and Conditions;
- (c) any money payable to the Supplier by the Customer becomes overdue, under the Terms and Conditions or the Guarantee or otherwise, or in the Supplier's opinion the Customer will be unable to make such payment when it fall due;
- (d) The Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (e) A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
- 10.0 CLAIMS MADE UNDER THE GUARANTEE**
- 10.1. As soon as reasonably possible after identifying a claim or potential claim in respect of any Goods, the Customer must:
- (a) package up any Goods (insofar as that is possible) and/or secure or isolate the Goods;
- (b) preserve the site or location of any in-situ Goods to prevent any contamination or disturbance of the site or location
- 10.2. Within five (5) business days of identifying a claim or potential claim in respect of any Goods, the Customer must commence the claim process detailed in clause 10.3 of the Guarantee.
- 10.3. To make a claim under the Guarantee, the Customer must:
- (a) firstly, contact the Supplier by telephone on (07) 4035 2411 to notify the Supplier of the claim; and
- (b) secondly, submit the claim to the Supplier in writing by email to mail@jmswitchboards.com.au, providing details of the alleged issues or defects, together with the proof of purchase of the Goods or Services; and
- (c) provide or make arrangements for Access.
- 11.0 EXCLUSIONS**
- 11.1. **Consequential Loss**
- To the extent permissible under the Law, notwithstanding any other provision of the Terms and Conditions or the Guarantee, the Supplier will not be liable to the Customer in contract (including under any indemnity in the Guarantee), tort (including in negligence or for breach of statutory duty) or otherwise, for any Consequential Loss related to or connected with the Goods, the Services, the Terms and Conditions or the Guarantee, except to the extent such Consequential Loss is caused by the fraud or wilful or deliberate breach of the Terms and Conditions or the Guarantee by the Supplier.
- 11.2. **Exclusions Generally**
- The Parties acknowledge and agree that to the extent permitted under the Law and/or the CAC Act, the Supplier is not liable under or with respect to the Guarantee where in the opinion of the Supplier:
- (a) The Defect relates to Excluded Goods;
- (b) The Customer had the Goods installed other than by a competent, qualified tradesperson, or the Goods were incorrectly, improperly or incompetently installed;
- (c) The Customer failed to maintain or keep the Goods in good repair, or failed to maintain the Goods in accordance with the Supplier's recommendation or direction regarding maintenance, including, if applicable, the Supplier's maintenance checklist provided;
- (d) The Customer failed to comply with the claims process under clause 10.0 of the Guarantee;
- (e) the Customer breached, or was in default of, the Customer's obligations under clauses 6.0, 7.0, 7.2, 8.0, or 9.0 of the Guarantee;

- (f) the Defect to which the claim or potential claim relates is an Excluded Defect;
- (g) the Defect with the Goods or the Services was directly or indirectly caused or contributed to by the Customer, whether or not it arose through a breach of or default under clauses 6.0, 7.0, 7.2, 8.0, or 9.0 of the Guarantee or otherwise;
- (h) the Defect was the result of fair or reasonable wear and tear of the Goods or Services;
- (i) undertaking inspections, re-work, re-performance of Services or re-supply of the Goods will require the Supplier's personnel to come into contact with asbestos material or other hazardous materials or working conditions contrary to the *Workplace Health & Safety Act 2011* (Qld) (as amended or superseded) or Law;
- (j) the Defects in the Goods arose, was caused by or contributed to directly or indirectly by abuse, vandalism, theft, fire, flood, cyclones, wind, freezing, inclement weather, brown outs, inadequate power supply, electrical surge, lightning, wiring, ductwork, improper installation, unauthorised modifications or repairs, improper use, use of parts or materials not authorised by the Supplier, unusual atmospheric conditions, acts of war, or acts of God;
- (k) action required under the Guarantee became necessary because of improper storage, improper ventilation, non-compliant repairs or products not complying with electrical standards, reconfiguration of products.
- (l) The damages to or faults, failures or defects in the Goods are cosmetic or superficial or are to non-functional parts or expendable items, and do not affect the functionality of the Goods;
- (m) The damages to or faults, failures or defects in the Goods are in respect of consumable items easily replaced by the Customer, such as filters, lamps, or globes;
- (n) the original serial numbers of the Goods have been removed, altered, tampered with or cannot be readily determined;
- (o) the Defects were the result of accident damage; or
- (p) the Defects were the result of or were caused or contributed to by loss or corruption of data or damage due to computer viruses, and/or the restoration or update of software, firmware or operating systems.
- 11.3. The Customer agrees that where one or more of the exclusions in clause 11.2 of the Guarantee apply or have occurred, to the extent permissible under the Law the Supplier is not liable under this Guarantee in respect of such Defects.
- 12.0 CHANGE IN CONTROL / ASSIGNMENT**
- 12.1. The Parties acknowledge and agree that the Guarantee is provided in respect of the Customer only, as constituted at the date the Parties entered into the Guarantee.
- 12.2. The Customer may only assign its interests in the Guarantee with the express prior written approval of the Supplier, which approval may be withheld at the Supplier's absolute and unfettered discretion.
- 12.3. If the Customer wishes to assign its interest in the Guarantee (**Proposed Assignment**), it must provide in writing:
- (a) At least twenty-eight (28) days' prior written notice; and
- (b) within five (5) business days, any information (including documentation) regarding the proposed assignee requested by the Supplier.
- 12.4. For the avoidance of doubt, the Parties acknowledge and agree that:
- (a) where the Customer is a corporate entity or an entity other than a natural person, or is a party to the Guarantee in the capacity of trustee for a trust, any change or proposed change in the effective control and/or shareholding of the Customer entity or change or proposed change in representative capacity amounts to a deemed assignment, triggering the application of clause 12.0 of the Guarantee and the corresponding clause in the Terms and Conditions;
- (b) the Supplier may withhold its approval in its absolute and unfettered discretion, and is not required to communicate or provide to the Customer any reason for its decision;
- (c) the Supplier makes no representation or promise with respect to its decision on approval of a request for consent to an assignment merely by requesting any information from the Customer regarding the proposed assignment or reviewing same.
- 12.5. The Customer acknowledges and agrees that where the Supplier consents to the assignment, the Customer will at its own cost arrange for the assignee to enter into a deed of assignment, assumption and amendment with the Customer and the Supplier, sufficient to cover the assignee's agreement to be bound by the terms of the Terms and Conditions and the Guarantee.
- 12.6. The Customer will pay the Supplier's costs of and incidental to the assignment process on an indemnity basis.
- 13.0 INTELLECTUAL PROPERTY**
- 13.1. Except where otherwise expressly agreed in writing by the Supplier, all copyright and other intellectual property rights in respect of all designs, drawings, documents and other materials, contained within or provided in conjunction with the Goods, remain the exclusive property of the Supplier, provided that the Supplier hereby grants to the Customer a limited licence for the use of the intellectual property to the extent required for the operation of the Guarantee.
- 13.2. The Customer warrants that the provision of any designs, specifications, instructions or Customer Information by the Customer to the Supplier will not infringe any third party's intellectual property rights.
- 13.3. The Customer agrees to indemnify and keep indemnified the Supplier against any action, suit, claim or demand taken by a third-party against the Supplier in respect of any breach of the warranty in Clause 13.2 of the Guarantee.
- 13.4. The Customer agrees that the supplier may (at no cost) use for the purpose of marketing or entry into any competition, any documents, designs, drawings or goods which the supplier has created for the Customer.

14.0 TERMINATION AND CANCELLATION BY SUPPLIER

- 14.1. The Supplier may cancel any order to which the Terms and Conditions and the Guarantee apply or cancel delivery of Goods at any time before the Goods are delivered provided by giving written notice to the Customer. On giving such notice the Supplier shall repay to the Customer any sums paid in respect of the Price.
- 14.2. The Supplier shall not be liable for any Losses or Consequential Loss whatever arising from such cancellation.
- 14.3. Without prejudice to the Supplier's other remedies at law, the Supplier shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to the Supplier shall, whether or not due for payment, become immediately payable in the event that:
- (a) Any money payable to the Supplier becomes overdue; or
 - (b) The Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - (c) A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

15.0 TERMINATION AND CANCELLATION BY CUSTOMER

- 15.1. The Customer may terminate the Guarantee at any time, by providing written notice to the Supplier.
- 15.2. The Parties agree that such termination by the Customer does not affect any rights, liabilities or obligations accrued by the Parties prior to the date of termination.

16.0 MISCELLANEOUS PROVISIONS
16.1. Notice

Where a party is entitled or required to give notice to the other party under the Guarantee, unless otherwise expressly provided the notice must be given in writing and delivered to the other party by post or by email or delivered in person.

16.2. Entire Agreement

The Guarantee Terms and Condition constitute the whole agreement or understanding made between the Customer and the Supplier with respect to the Guarantee.

16.3. Amendment

This Agreement can only be amended in writing signed by each of the parties.
All prior discussions and negotiations are merged within this document and the Supplier expressly waives all prior representations made by him or on his behalf that are in conflict with any clauses in this document in any way.

16.4. Persons or entities Bound

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

16.5. Severability

Should any provision or clause of the Guarantee Terms and Conditions be deemed by a court of competent jurisdiction or relevant legislative authority to be void, illegal or unenforceable, that provision or clause is severable from the Guarantee Terms and Conditions and the remainder of the Guarantee Terms and Conditions remains in full force and effect.

16.6. Contravention

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

16.7. Waiver

The Supplier does not waive any provision of or right under the Guarantee unless such waiver is expressed in writing and signed by an authorised representative of the Supplier and does so only to the extent of such written waiver.

16.8. Governing Law & Jurisdiction

The Parties agree that the Guarantee is construed in accordance with and governed by the laws of Queensland, Australia, and the parties unconditionally submit to the exclusive jurisdiction thereof.

16.9. Interpretation

In the Guarantee, unless the contrary intention appears:

- (a) A reference to the Guarantee relates includes a reference to the Guarantee as novated, altered or replaced from time to time
- (b) the singular includes the plural and vice versa;
- (c) headings are for ease of reference only and do not affect the meaning of the Guarantee;
- (d) other grammatical forms of defined words or expressions have corresponding meanings;
- (e) the words 'include' and 'including' are to be construed without limitation;
- (f) words importing a gender include other genders;
- (g) a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix to the Guarantee;
- (h) 'A\$', '\$A', 'AUD', 'dollar' or '\$' is a reference to Australian currency;
- (i) a person includes any individual, firm, body corporate, partnership, unincorporated association, government, state or agency of a state, joint venture or relevant legislative authority;
- (j) a party includes its executors, administrators, successors and permitted assigns;
- (k) a day means a period of 24 consecutive hours from midnight;
- (l) a week means 7 consecutive days commencing and ending at midnight on Sunday; and
- (m) a month means a calendar month;
- (n) where a party is more than one person the Guarantee binds all of them separately and each of them together;

- (o) if the due date for anything to be done under the Guarantee falls on a day that is not a Business Day, then it must be done on the next Business Day.

16.10. **Force majeure**

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.

16.11. **Counterparts**

This document may be executed in any number of counterparts. A party may execute this document by signing any counterpart. All counterparts together are taken to constitute one instrument.

FORM

CHECKSHEET – SWITCHBOARD MAINTENANCE



ORGANISATION/SITE:		DATE	
CUBICLE IDENTIFICATION:			

Checks are to be completed by an appropriately qualified and competent person.
 A Risk Assessment must be completed before undertaking checks.
 All non-conformances are to be reported and rectified.

Results Key: "C" = Conformance "N" = Non-Conformance "—" = Not Applicable

CHECK DESCRIPTION	RESULT								
6 Monthly Checks									
Switchboard has been internally and externally cleaned.									
There is no mechanical damage to switchboard									
All Door and Weather seals have been inspected and provide adequate seal									
Protective Coatings and Metal Work have been inspected and are free from corrosion									
Switchboard hinges, handles and latches have been inspected and are functional									
There is no presence of dust, water or foreign objects inside switchboard including switchgear									
Electrical Insulation condition has been inspected and is not compromised									
Circuit Breakers, Switches and Handle Mechanisms are operational. Exercise all Breakers and Switches									
RCD, RCBO, Safety Switches have been tripped using the integral test button.									
There is no undue noise or vibration									
There is no undue heat									
Check <u>all</u> terminations and connections are tight.									
Check there is no evidence of vermin (rats, mice, geckos, ants etc.)									
12 Monthly Checks									
All 6 Monthly Checks above to be completed as part of 12 monthly checks									
Air Filters Cleaned or Replaced									
Thermographic survey of the switchboard undertaken, and written report provided.									
Measure Current Draw on each phase and record below									
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R		W		B		N			
Perform Insulation Resistance Test on Switchboard and record below									
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 12.5%;">P/P</td> <td style="width: 12.5%;"></td> <td style="width: 12.5%;">P/N</td> <td style="width: 12.5%;"></td> <td style="width: 12.5%;">P/E</td> <td style="width: 12.5%;"></td> <td style="width: 12.5%;">N/E</td> <td style="width: 12.5%;"></td> </tr> </table>	P/P		P/N		P/E		N/E		
P/P		P/N		P/E		N/E			
Perform voltage drop tests for each circuit underload and record any significant variations									

FORM
CHECKSHEET –SWITCHBOARD MAINTENANCE



COMMENTS, NON-CONFORMANCES AND CORRECTIVE ACTIONS

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CHECKED BY

NAME:		SIGNATURE:	
ELECTRICAL LICENSE		DATE:	