



**Power By Watts Pty Ltd**  
 ABN: 22 003 793 968  
 Licence No: EC39171  
 PO Box 78, Moss Vale NSW 2577  
 Email: admin@powerbywatts.com.au  
 Web: www.powerbywatts.com.au  
 Phone: (02) 4868 2834 • Fax: (02) 4868 3669

## JOB CONTRACT

A. Owner's Details			
Trading Name: Gosford District Tennis Association trading as Gosford Tennis Club		ABN: 52 377 103 934	ACN: N/A
Physical Address: Racecourse Rd		Business Address: Racecourse Rd	
Suburb/State: Gosford, NSW	Postcode: 2250	Suburb/State: Gosford, NSW	Postcode: 2250
Contact Name: Tony Haworth	Phone: 02 4325 2921	Mobile: 0417 087 187	
Email: <a href="mailto:tony@gdta.com.au">tony@gdta.com.au</a>			
B. Contractor's Licence			
Licence No: EC39171	Category (as shown on licence): Electrical		Expiry Date: 22/08/22
Address: (as shown on licence) Riverside Meadows, Headlam Rd, Moss Vale NSW 2577			
Work Phone No: 02 4868 2834		Email: <a href="mailto:admin@powerbywatts.com.au">admin@powerbywatts.com.au</a>	
C. Worksite Details			
Worksite Address: Racecourse Rd		Suburb/State: Gosford, NSW	Postcode: 2250
Lot No:	on DP Number:		
DETAILS OF WORKS AND/OR MATERIALS WHICH ARE TO BE SUPPLIED:			CONTRACT PRICE (incl. GST)
<b>COURTS 1 – 4</b> Remove and dispose of existing light fittings Supply and install 2 x 450w LED on each pole (16 in total) Aim lights according to lighting design Test and commission			
<b>COURTS 10 – 11</b> Remove and dispose of existing light fittings Supply and install 1 x 900w LED on each pole (4 in total) Aim lights according to lighting design Test and commission			
<b>LIGHTING CONTROL</b> Supply and install 'Cloudmaster' lighting control system			
Deposit (10%)			<b>\$ 4, 250</b>
On final completion (40%)			<b>\$ 38, 250</b>
<b>TOTAL CONTRACT PRICE \$ (Incl GST)</b>			<b>\$ 42, 500</b>
ESTIMATED COMMENCEMENT DATE: 12 <sup>th</sup> October 2020		ESTIMATED COMPLETION DATE: 30 <sup>th</sup> October 2020	
CONDITIONS			
No allowance for any switchboard works			
No allowance for upgrade of power			
No allowance for replacement of any cabling from base of pole to switchboard			

The **CONTRACT PRICE** REMAINS VALID FOR THIRTY (30) DAYS AND MAY THEN BE SUBJECT TO VARIATION BY THE CONTRACTOR. ANY VARIATION TO THE ABOVE QUANTITIES OR THE SPECIFIED WORKS MAY RESULT IN A VARIATION TO THE **CONTRACT PRICE**.

I accept this contract and certify that the above information is true and correct. I have read and understand the TERMS AND CONDITIONS (overleaf or attached) of Power By Watts Pty Ltd which form part of, and are intended to be read in conjunction with this Job Contract and agree to be bound by these conditions. I authorise the use of my personal information as detailed in the Privacy Act clause therein.

CONTRACTOR TO SIGN	OWNER TO SIGN
Name: Dan Watts	Name: <i>TONY HAWORTH</i>
Signed: <i>[Signature]</i>	Signed: <i>[Signature]</i>
Date: 10/09/20	Date: 10/9/2020



**TERMS AND CONDITIONS**

1. **Definitions**
- 1.1 "Contractor" shall mean Power By Watts Pty Ltd
- 1.2 "Owner" shall mean the Owner or any person acting on behalf of and with the authority of the Owner
- 1.3 "Works" shall mean the Works as described in the Description of Works in this Contract. Where the context so permits the terms "Works" or "Materials" shall be interchangeable for each other.
- 1.4 "Materials" shall mean Materials supplied by the Contractor that are required in order to complete the Works
- 1.5 "Worksite" shall mean the land (or that part of the land) that the Contractor reasonably needs to occupy in order to carry out and practically complete the Works required under this Contract
- 1.6 "Prime Cost Item" shall mean an item that either has not been selected or whose price is not known at the time this contract is entered into and for the cost of supply and delivery of which the Contractor must make a reasonable allowance in the contract. (Applicable only if appendix attached)
- 1.7 "Provisional Sum" shall mean an estimate of the cost of carrying out particular Works under this contract for which the Contractor, after making all reasonable inquiries, cannot give a definite price at the time this contract is entered into
- 1.8 "Contract Price" shall mean the price of the Works as agreed between the Contractor and the Owner
2. **Variations**
- 2.1 In the event that the Owner requests a variation the Contractor will give the Owner a written variation document detailing the Works, the amended Contract Price, the estimated time to undertake the variation, and the key dates for the completion of any, and shall require written acceptance by the Owner of the variation before commencing Works on the variation
- 2.2 In the event that the Contractor requests a variation, the Contractor will, in writing state the reason for the variation, provide a full description of the variation, state any effect the variation will have on the contract, including but not limited to the Contract Price, completion date and whether further permits or authorisations are required, and shall require written acceptance by the Owner of the variation before commencing on the variation
- 2.3 All variations to this contract (including those to the plans and specifications) must be in writing, dated and signed by both parties to the contract
- 2.4 The cost of any work will be deducted from the Contract Price. If the varied Contract Price exceeds \$20,000, a certificate of insurance under the Home Building Compensation Fund must be attached to the contract or a new contract entered into that complies with the requirements in the Home Building Act 1989 for contracts over \$20,000.
- 2.5 All variations under this clause shall include an allowance for Contractor's overheads and profit.
3. **Contract Price and Payment**
- 3.1 Time for payment for the Works shall be of the essence and will be stated on the progress payment or invoice. If no time is stated, then payment shall be due seven (7) days following the date of the progress payment or invoice
- 3.2 Any deposit shall be payable on the day that this contract is signed by the Owner
- 3.3 The Owner shall make progress payments within five (5) days of receipt from the Contractor in writing of a progress claim of insurance under the Home Building Compensation Fund in this contract. Such payments shall include any amounts payable for Contract Price adjustments or variations claimed and not paid prior to each progress payment. (Applicable only if appendix attached)
- 3.4 Payment may be made by cash, cheque, bank cheque, electronic banking, or by any other method as agreed between the Owner and the Contractor
- 3.5 The Contract Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in this contract
4. **Provision of the Works**
- 4.1 The Contractor will endeavour to commence the Works on the commencement date specified in this contract and to complete the Works within the completion period stated in this contract, subject to clause 4.2
- 4.2 At the sole discretion of the Contractor the Works commencement date will be put back and/or the building period extended for whatever time is reasonable in the event that the Contractor claims an extension of time by giving the Owner notice. (Such written notice to include the reasons and requested length of the extension) where completion is delayed by an event beyond the Contractor's control, including but not limited to, delays caused or requested by the Owner, inclement weather or conditions, variations, industrial disputes, unavailability of materials, relocation of hidden services such as electrical or plumbing or any delays caused by the failure to obtain the necessary approvals as per clause 6.1(b)
- 4.3 Unless the Owner notifies the Contractor in writing within five (5) business days of the date of the Contractor's notice that it objects to the delay, the contract shall be extended by the time notified by the Contractor
- 4.4 The Works shall be deemed to be practically completed when the Works carried out under this contract have been completed in accordance with the plans and specifications set out in this contract, and can be used by the Owner for their intended purposes, are free of major defects, and all other statutory requirements have been met. The Contractor shall advise the date of practical completion to the Owner in writing
- 4.5 The Contractor shall not be liable for any costs incurred by the Owner due to any unforeseen delays in completing the Works
5. **Defects**
- 5.1 The Contractor shall rectify (at the Contractor's own expense) any defects or omissions in the Works that have become apparent within four (4) weeks of the date that the Owner is advised that the Works have been completed, provided that the Owner has notified the Contractor in writing of any such defects or omissions no later than five (5) business days after the expiry of that four (4) week period
- 5.2 The Contractor shall remedy any defects brought to the Contractor's attention under clause 5.1 within thirty (30) days of receiving such notification in writing
6. **Owner's Responsibilities**
- 6.1 It is the intention of the Contractor and agreed by the Owner that:
  - (a) any building construction sites will comply with all work health and safety (WHS) laws relating to building construction sites and any other relevant safety standards or legislation; and
  - (b) the Owner shall obtain and pay for all planning and building approvals required for the Works prior to commencement of the Works by the Contractor unless otherwise agreed in writing between the Owner and the Contractor. In the event that the Contractor agrees to obtain the approvals at the cost of those approvals shall be the Owner's responsibility and shall be in addition to the Contract Price; and
  - (c) the Owner shall remove from the Worksite any furniture, personal effects or other property likely to impede the Contractor in order to minimise the risk of injury or any damage; and
  - (d) the Owner shall provide the Contractor with clear and free access to the Worksite to enable the Contractor to complete the Works
7. **Contractor's Responsibilities**
- 7.1 The Contractor shall make good (at the Contractor's own expense) any loss or damage to the Works or property of the Owner caused by the negligence of the Contractor
8. **Risk**
- 8.1 If the Contractor retains ownership of the Materials nonetheless, all risk for the Materials passes to the Owner on completion of the Works
- 8.2 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
- 8.3 The Owner 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), the Contractor reasonably forms the opinion that the Owner's premises is not safe for the installation of Materials to proceed then the Contractor shall be entitled to delay installation of the Materials (in accordance with the provisions of clause 11.2) until the Contractor is satisfied that it is safe for the installation to proceed
- 8.4 The Owner acknowledges that the Contractor is only responsible for parts that are replaced by the Contractor, and in the event that other parts/Materials, subsequently fail, the Owner agrees to indemnify the Contractor against any loss or damage to the Materials, or caused by the Materials, or any part thereof, that may occur
- 8.5 The Contractor shall be entitled to rely on the accuracy of any plans, specifications and other information provided by the Owner. The Owner acknowledges and agrees that in the event that any of this information provided by the Owner is inaccurate, the Contractor accepts no responsibility for any loss, damages, or costs however resulting from these inaccurate plans, specifications or other information
- 8.6 Any advice, recommendation, information, assistance or service provided by the Contractor in relation to Materials or Works supplied is given in good faith, is based on the Contractor's own knowledge and experience and shall be accepted without liability on the part of the Contractor and it shall be the responsibility of the Owner to confirm the accuracy and reliability of the same in light of the use to which the Owner makes or intends to make of the Materials or Works
- 8.7 The Owner 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 Owner further agrees to indemnify the Contractor against any costs incurred by the Contractor as a consequence of such discovery. Under no circumstances will the Contractor handle removal of asbestos product
9. **Underground Locations**
- 9.1 Prior to the Contractor commencing the Works the Owner must advise the Contractor of the precise location of all underground services on the Worksite and clearly mark the same. The underground mains and services the Owner must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sudge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, or pumping mains, and any other services that may be on the Worksite
- 9.2 Whilst the Contractor will take all care to avoid damage to any underground services the Owner agrees to indemnify the Contractor in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified as per clause 9.1
10. **Title**
- 10.1 It is the intention of the Contractor and agreed by the Owner that ownership of Materials shall not pass until:
  - (a) the Owner has paid all amounts owing for the particular Materials; and
  - (b) the Owner has met all other obligations due by the Owner to the Contractor in respect of all contracts between the Contractor and the Owner
- 10.2 Receipt by the Contractor of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Contractor's ownership or rights in respect of Materials, and this contract, shall continue. It is further agreed that:
  - (a) until such time as ownership of the Materials shall pass from the Contractor to the Owner the Contractor may give notice in writing to the Owner to return the Materials or any of them to the Contractor. Upon such notice the rights of the Owner to obtain ownership or any other interest in the Materials shall cease; and
  - (b) the Contractor shall have the right of stopping the Materials in transit whether or not delivery has been made; and
  - (c) if the Owner fails to return the Materials to the Contractor then the Contractor or the Contractor's agents as the trustee of the Owner enter upon and into and use and premises owned, occupied or used by the Owner, or any premises where the Materials are situated and take possession of the Materials
11. **Personal Property Securities Act 2009 ("PPSA")**
- 11.1 In this clause:
  - (a) financing statement has the meaning given to it by the PPSA;
  - (b) financing change statement has the meaning given to it by the PPSA;
  - (c) security agreement means the security agreement under the PPSA created between the Owner and the Contractor by these terms and conditions; and
  - (d) security interest has the meaning given to it by the PPSA
- 11.2 Upon assenting to these terms and conditions in writing the Owner acknowledges and agrees that the Contractor will register a financing change statement for the purposes of the PPSA and create a security interest in:
  - (a) all Materials previously supplied (if any), and that will be supplied in the future, by the Contractor to the Owner;
  - (b) any monetary obligations owed by the Owner to the Contractor for the provision of the Works
- 11.3 The Owner undertakes to:
  - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Contractor may reasonably require to:
    - (i) register a financing statement or financing change statement in relation to a security interest in 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 11.3(a)(i) or 11.3(a)(ii);
  - (b) indemnify, and upon demand reimburse, the Contractor for all expenses incurred in obtaining or financing a financing change statement on the Personal Property Securities Register established by the PPSA or releasing any registration made thereby;
  - (c) not register a financing change statement in respect of a security interest without the prior written consent of the Contractor;
  - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Materials and/or Works in favour of a third party without the prior written consent of the Contractor; and
  - (e) immediately advise the Contractor 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 The Contractor and the Owner 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 Owner hereby waives its rights to receive notice under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA
- 11.6 The Owner 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 the Contractor, the Owner waives its right to receive a verification statement in accordance with section 157 of the PPSA
- 11.8 The Owner shall unconditionally ratify any actions taken by the Contractor under clauses 11.3 to 11.5
12. **Intellectual Property**
- 12.1 Where the Contractor has designed, drawn or written plans or a schedule of Works for the Owner, then the copyright in those plans, schedules, designs and drawings shall remain vested in the Contractor, and shall only be used by the Owner at the Contractor's strict order
- 12.2 The Owner warrants that all designs or instructions provided to the Contractor will not cause the Contractor to infringe any patent, registered design or trademark in the execution of the Works
13. **Default and Consequences of Default**
- 13.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of 2.5% per calendar month (and at the Contractor's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment
- 13.2 If the Owner owes the Contractor any money the Owner shall indemnify the Contractor from and against all costs and disbursements incurred by the Contractor in recovering the debt (including but not limited to interest administration fees, legal costs on a solicitor and own costs, and the Contractor's contract default fees, and bank disbursement fees)
- 13.3 Further to any other rights or remedies the Contractor may have under this contract, if the Owner has made payment to the Contractor, and the transaction is subsequently reversed or cancelled, the Owner shall be liable for the amount of the reversed or cancelled transaction, in addition to any further costs incurred by the Contractor under this clause 13, where it can be proven that such reversal or cancellation is found to be illegal, fraudulent or in contravention of the Owner's obligations under this contract
- 13.4 Without prejudice to any other remedies the Contractor may have, if at any time the Owner is in breach of any obligation (including those relating to payment) under these terms and conditions the Contractor may suspend, terminate or discontinue its services to the Owner. The Contractor will not be liable to the Owner for any loss or damage the Owner suffers because the Contractor has exercised its rights under this clause
14. **Privacy Act 1988**
- 14.1 The Owner agrees for the Contractor to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B., occupation, previous credit applications, credit history) about the Owner in relation to credit provided by the Contractor
- 14.2 The Owner agrees that the Contractor may exchange information about the Owner with those credit providers and with related body corporates for the following purposes:
  - (a) to assess an application by the Owner and/or
  - (b) to notify other credit providers of a default by the Owner and/or
  - (c) to exchange information with other credit providers as to the status of this credit account, where the Owner is in default with other credit providers; and/or
  - (d) to assess the creditworthiness of the Owner including the Owner's repayment history in the preceding two (2) years
- 14.3 The Owner consents to the Contractor being given a consumer credit report to collect overdue payment on commercial credit
- 14.4 The Owner agrees that personal credit information provided may be used and retained by the Contractor for the following purposes (and/or other agreed purposes or requirements):
  - (a) the provision of Works; and/or
  - (b) analysing, verifying and/or checking the Owner's credit, payment and/or status in relation to the provision of Works; and/or
  - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Owner; and/or
  - (d) enabling the collection of amounts outstanding in relation to the Works
- 14.5 The Owner agrees to provide the Owner to a CRB for the following purposes:
  - (a) to obtain a consumer credit report;
  - (b) allow the CRB to create or maintain a credit information file about the Owner including credit history
- 14.6 The information given to the CRB may include:
  - (a) personal information as outlined in 14.1 above;
  - (b) name of the credit provider and that the Contractor is a current credit provider to the Owner;
  - (c) whether the credit provider is a licensee;
  - (d) type of consumer credit;
  - (e) details concerning the Owner's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
  - (f) date of consumer credit default(s), overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which writs notice of request of payment has been made and debt recovery action commenced or alternatively that the Owner no longer has any overdue accounts and the Contractor has been paid or otherwise discharged and all debts surrounding that discharge (e.g. dates of payments);
  - (g) information that, in the opinion of the Contractor, the Owner has committed a serious credit infringement; and
  - (h) advice that the amount of the Owner's overdue payment is equal to or more than one hundred and fifty dollars (\$150)
- 14.7 The Owner shall have the right to request (by e-mail) from the Contractor:
  - (a) a copy of the information about the Owner retained by the Contractor and the right to request that the Contractor correct any incorrect information; and
  - (b) that the Contractor does not disclose any personal information about the Owner for the purpose of direct marketing
- 14.8 The Contractor will destroy personal information upon the Owner's request (by e-mail) or if it no longer requires it. It is required in order to fulfil the obligations of this contract or is required to be maintained and/or stored in accordance with the law
- 14.9 The Owner can make a privacy complaint by contacting the Contractor via e-mail. The Contractor will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Owner is not satisfied with the response provided, the Owner can make a complaint to the Information Commissioner on www.oaic.gov.au
15. **Cancellation**
- 15.1 The Contractor may cancel this contract (Subject to clause 15.2) if the Owner:
  - (a) fails to make payment due under this contract;
  - (b) denies the Contractor access to the Worksite to complete or undertake any Works; or
  - (c) becomes insolvent, goes into liquidation or administration
- 15.2 Where the Contractor believes that the defaults in clause 15.1 can be rectified then the Contractor shall advise the Owner in writing that they have five (5) working days (from the date of the letter) in which to do so. If the Owner fails to rectify any default within that period, then the Contractor shall advise the Owner in writing that they are cancelling the contract
- 15.3 If the contract is ended under this clause, the Contractor shall be entitled to a reasonable amount for the Works carried out under this contract to the date the contract is ended (including the cost of any Materials delivered to the Worksite or already ordered from suppliers but not yet paid for by the Owner)
16. **Warranty**
- 16.1 The Contractor warrants that:
  - (a) the Works will be performed in a proper and workmanlike manner and in accordance with the plans and specifications set out in the contract;
  - (b) all Materials supplied by the Contractor will be good and suitable for the purpose for which they are used and unless otherwise stated in the contract, those Materials will be new;
  - (c) the Works will be done with due diligence and within the time stipulated in the contract, or if no time is stipulated within a reasonable time;
  - (d) if the Works consist of the making of alterations or additions to a dwelling or the repairing, renovation, decoration or protective treatment of a dwelling, the Works will result, to the extent the Works conducted, in a dwelling that is reasonably fit for occupation as a dwelling;
  - (e) the Works and any Materials used in providing the Works will be reasonably fit for the specified purpose or result. If the Owner expressly makes known to the holder of the Contractor's licence or person required to hold a Contractor's licence, or another person with express or apparent authority to enter into or vary contractual arrangements on behalf of the holder or person, the particular purpose for which the Works is required or result that the Owner desires the Works to achieve, so as to show that the Owner relies on the holder's or person's skill and judgment
- 16.2 Claims in regards to statutory warranties must be made within six (6) years for structural Works or within two (2) years for non-structural Works both periods commencing from the date the Works have been completed in accordance with clause 4.4 here. The time periods specified in this clause shall be extended for an additional six (6) months in the event that a consumer or subsequent purchaser becomes aware of a defect within the last six (6) months of the time periods specified
- 16.3 The Contractor also warrants that all Works done under this contract will comply with:
  - (a) the Building Code of Australia and carried out in accordance with all relevant laws and legal requirements (to the extent required under the Environmental Planning and Assessment Act 1979, including any regulation or other instrument made under that Act, the Electricity (Consumer Safety) Act 2004, and the Plumbing and Drainage Act 2001); and
  - (b) all other relevant codes, standards and specifications that the Works are required to comply with under any law; and
  - (c) the conditions of any relevant development consent or complying development certificate
- 16.4 Despite clause 16.3, this contract may limit the liability of the Contractor for a failure to comply with clause 16.3 if the failure so relates to:
  - (a) a design or specification prepared by or on behalf of the Owner (but not by or on behalf of the Contractor); or
  - (b) a design or specification required by the Owner, if the Contractor has advised the Owner in writing that the design or specification contravenes clause 16.3
- 16.5 For Materials not manufactured by the Contractor the warranty shall be the current warranty provided by the manufacturer of the Materials. The Contractor shall be under no liability whatsoever except for the express conditions as detailed and stipulated in the manufacturer's warranty
17. **Surplus Materials**
- 17.1 Unless otherwise stated elsewhere in this contract:
  - (a) demolished materials remain the Owner's property; and
  - (b) Materials which the Contractor brings to the Worksite which are surplus remain the property of the Contractor
18. **Dispute**
- 18.1 If the Owner or Contractor believes a dispute has arisen in relation to any matter under this contract, then that party must promptly give the other party written notice setting out the matter in dispute
- 18.2 Both parties shall meet within fourteen (14) days of the giving of such notice to attempt to resolve the dispute
- 18.3 In the event that the dispute cannot be resolved then the matter shall be referred to the Office of Fair Trading for assistance in the resolution of the dispute
19. **The Commonwealth Competition and Consumer Act 2010, Home Building Act 1989, Home Building Regulations 2004, and Fair Trading Acts**
- 19.1 Nothing in this contract is intended to have the effect of contracting out of any applicable provisions of the Commonwealth Competition and Consumer Act 2010, Home Building Act 1989, Environmental Planning and Assessment Act 1979, Home Building Regulations 2004, and Fair Trading Acts in each of the States and Territories of Australia (including any subsequent amendments or re-enactment thereof), except to the extent permitted by those Acts where applicable
20. **Service of Notices**
- 20.1 Any written notice given under this contract shall be deemed to have been given and received:
  - (a) by handing the notice to the other party, in person;
  - (b) by leaving it at the address of the other party as stated in this contract;
  - (c) by sending it by registered post to the address of the other party as stated in this contract;
  - (d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any) on receipt of confirmation of the transmission;
  - (e) if sent by email to the other party's current email address
- 20.2 Any notice if posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post the notice would have been delivered
21. **General**
- 21.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable in the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired
- 21.2 If any provisions of this contract are inconsistent with the PPSA, the PPSA shall prevail to the extent of that inconsistency
- 21.3 This contract shall be governed by the laws of New South Wales and are subject to the jurisdiction of the courts of New South Wales
- 21.4 The Contractor shall be under no liability whatever to the Owner for any indirect loss and/or expense (including loss of profit) suffered by the Owner arising out of a breach by the Contractor of this contract
- 21.5 Subject to clause 16, in the event of any breach of this contract by the Contractor, the remedies of the Owner shall be limited to damages. Under no circumstances shall the liability of the Contractor exceed the Contract Price
- 21.6 Unless otherwise provided in writing the Owner shall not be entitled to set off against or deduct from the Contract Price any sums owed or claimed to be owed to the Owner by the Contractor
- 21.7 Where more than one Owner has entered into this contract, the Owners shall be jointly and severally liable for all payments of the Contract Price and any other obligations of the Owner under this contract
- 21.8 None of the Contractor's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Contractor in writing nor is the Contractor bound by any such unauthorised statements
- 21.9 Neither party to this contract may assign this contract, any payment or any other right, benefit or interest under this contract without the written consent of the other party (which shall not be unreasonably withheld). The Contractor may elect to subcontract out any part of the Works that shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Owner agrees and understands that they have no authority to give any instruction to any of the Contractor's sub-contractors without the authority of the Contractor
- 21.10 The Owner agrees that the Contractor may review this contract by notifying the Owner in writing. If, following any such review, there is to be any change to this contract, then that change will take effect from the date on which the Owner accepts such change or otherwise at such time as the Owner makes a further request for the Contractor to provide Works to the Owner
- 21.11 Neither party shall be liable for any default due to any act of God, war, terrorism, fire, flood, storm or other event beyond the reasonable control of either party
- 21.12 The failure by either party to enforce any provision of this contract shall not be treated as a waiver of that provision, nor shall it affect the Contractor's right to subsequently enforce that provision
- 21.13 This contract, the plans and specifications have precedence in that order if there is any inconsistency between them