

Powercor Project Reference No. CR:

Network No.:

Contestable Works Agreement

Powercor Australia Ltd

and

The Customer

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Details

Parties		Powercor and Customer	
Commencement Date			
Powercor	Name	Powercor Australia Ltd	
	ABN	89 064 651 109	
	Address	40 Market Street, Melbourne, Victoria, 3000	
	Phone		
	Attention		
Customer	Name		
	ABN		
	Phone		
	Fax		
	Attention		
Recitals	A	The Customer has elected to design and construct the Works which, upon completion and acceptance by Powercor in accordance with this Agreement, will tie into and form part of Powercor's electrical distribution network.	
	B	To ensure the integrity of Powercor's electrical distribution network is maintained, Powercor requires the Customer and the Works to comply with the requirements of this Agreement.	
Powercor Officer			
Customers Appointed Project Manager	A complete list of Recognised contractors can be found here		
Land			
Street Address			
Certificate of Title	Volume:	Folio:	
Number of Lots			
Plan of Subdivision No.			
Lots requiring electricity supply			

1 Definitions and Interpretation

1.1 Definitions

In this Agreement, the following definitions apply:

AEMO means the Australian Energy Market Operator Limited ACN 072 010 327.

AER means the Australian Energy Regulator as established under Part IIIAA of the Competition and Consumer Act 2010 (Cth).

Business Day means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria.

Code means the Electricity Distribution Code and any other code, order, or other instrument applying from time to time to the Victorian region of the National Electricity Market, whether pursuant to statute, an order or certification of the ESC, the AER or otherwise.

Request For Audit Of Customer Provided Design Services means the certificate in the form set out in Schedule 2.

Commencement Date means the date of this Agreement as set out in the Details.

Date of Practical Completion means the date specified as the date of practical completion in a Certificate of Practical Completion signed by both the Customer and Powercor.

Defects Liability Period means a period of 24 months commencing from the Date of Practical Completion.

Design Plan has the meaning given to it in clause 6.1.

Details means the section of this Agreement headed “Details”.

Electricity Distribution Code means the code of that name issued by the ESC pursuant to the Electricity Industry Act (Vic) 2000 as amended or replaced from time to time.

Electricity Law means the Codes, the Electricity Industry Act 2000 (Vic) and regulations under that Act, the Electricity Safety Act 1998 (Vic) and regulations under that Act, the Essential Services Commission Act 2001 (Vic) and regulations and determinations under that Act, the National Electricity (Victoria) Act 2005 (Vic), the National Electricity Law, the National Electricity Rules and any other law, statute, regulation, proclamation, order in council, direction, tariff, guideline or standard which can be enforced by law or by a regulatory authority against a participant in the Victorian region of the National Electricity Market.

ESC means the Essential Services Commission under the Essential Services Commission Act (Vic) 2001, or any body which assumes its functions.

Land means the land set out in the Details.

National Electricity Law means the National Electricity (Victoria) Law which applies in Victoria as a result of the operation of section 6 of the National Electricity (Victoria) Act (Vic) 2005.

National Electricity Market means the market for wholesale trading in electricity operated by AEMO under the National Electricity Rules.

National Electricity Rules means the rules made under the National Electricity Law.

Network Compliance Audit means a compliance audit of the Works conducted by a Network Compliance Auditor against Powercor's Standard Work Instruction 12-15-W0004 "Technical Compliance CIAW Option 2 Projects" a copy of which may be downloaded from Powercor's website (www.powercor.com.au).

Network Compliance Auditor means an auditor listed on the Victorian Electricity Supply Industry website (www.vesi.com.au) under the "VEDN Auditors – Developers/Customers" section that is approved by Powercor to undertake a Network Compliance Audit of the Works.

Powercor's Technical Standards means the current design and technical standards published on Powercor's website (www.powercor.com.au) that are relevant to the Works. (Access to Powercor's design and technical standards may be obtained by completing a "Technical Standards and Work Practices Registration Form" which is available on Powercor's website (www.powercor.com.au)).

Practical Completion is that stage in the carrying out of the Works when:

- (a) the Works are complete;
- (b) all tests which are required to be carried out and passed under this Agreement before the Works can be considered to be completed have been carried out and passed;
- (c) documents and other information required under this Agreement which, in the Responsible Officer's opinion, are required for the effective use, operation and maintenance of the Works have been supplied; and
- (d) when the Certificate of Practical Completion has been signed by both parties.

Project Manager means a Recognised Contractor referred to in the Details as the "Project Manager" or as otherwise appointed by the Customer in accordance with clause 3.2.

Project Plan means a project plan which, as a minimum, contains the information specified in Schedule 3.

Recognised Contractor means a contractor listed for the relevant category of work on the current "Recognised Contractors List for Customer Initiated Augmentation Works" which is available on Powercor's website (www.powercor.com.au).

Responsible Officer means the person referred to in the Details and any replacement person appointed by Powercor from time to time.

Term has the meaning given in clause 2.

VEDN Civil Contractors means the contractors listed on the Victorian Electricity Supply Industry website (www.vesi.com.au) under the “Approved Civil Contractors” section.

Works means the works described in item 2 of Schedule 1 to be performed by the Customer on the Land in accordance with this Agreement.

1.2 Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (c) A reference in this Agreement to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced.
- (d) A reference to a clause or schedule is a reference to a clause or schedule of or to this Agreement.
- (e) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (f) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (g) References to the word ‘include’ or ‘including’ are to be construed without limitation.
- (h) The schedules form part of this Agreement.
- (i) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.
- (j) No term or provision of this Agreement will be construed against a party on the basis that the Agreement or the term in question was put forward or drafted by or on behalf of that party.

2 Term

This Agreement commences on the Commencement Date and terminates at the end of the Defects Liability Period, unless otherwise terminated in accordance with clause 16.

3 Customer's Project Manager

- 3.1** The Customer must ensure a Project Manager is appointed at all times during the Term of this Agreement. The Project Manager will, on behalf of the Customer, have:
- (a) overall responsibility for the supervision and contract administration of the Works;
 - (b) responsibility for ensuring the Works are performed in accordance with this Agreement; and
 - (c) authority to undertake any action and bind the Customer pursuant to, and for the purposes of this Agreement.
- 3.2** The Customer may replace its Project Manager provided:
- (a) the replacement Project Manager is a Recognised Contractor or a contractor who is, in Powercor's reasonable opinion, otherwise suitably skilled, experienced, licensed and competent to undertake the relevant category of work; and
 - (b) the Customer has given Powercor written notice not less than 5 Business Days prior to such replacement. .

4 Powercor Responsible Officer

Powercor must ensure a Responsible Officer is appointed at all times during the Term of this Agreement. Subject to the foregoing, Powercor may replace its Responsible Officer at any time by giving the Customer written notice of the replacement.

5 Customer's Project Plan

The Customer must:

- (a) provide Powercor with a copy of the Project Plan when the Customer executes and returns this Agreement to Powercor;
- (b) perform the Works in accordance with the Project Plan.

The Customer must notify Powercor in writing of any changes it proposes to make to the Project Plan before such changes are implemented by the Customer.

6 Design Plan and Approval

- 6.1** The Customer must provide Powercor with a design plan for the Works which must incorporate and satisfy the requirements of Powercor's Technical Standards (the "Design Plan"). The Design Plan must be provided to Powercor within 12 months of the Commencement Date. The Customer must

not commence any construction activities forming part of the Works until the Design Plan has been approved by Powercor.

- 6.2** Powercor will endeavour to review the Design Plan within 20 Business Days of its receipt. Powercor may at its sole discretion either approve the Design Plan, or, reject the Design Plan if the Design Plan does not comply with Powercor's Technical Standards. If Powercor rejects the Design Plan, Powercor must provide the Customer with written reasons why it believes the Design Plan is not in accordance with Powercor's Technical Standards.
- 6.3** If a Design Plan is rejected by Powercor under clause 6.2, the Customer must provide Powercor with a revised:
- (a) Design Plan for approval; and
 - (b) Project Plan (if required) to take account of any timing delays to the Works that have resulted from a Design Plan being rejected.

Clause 6.2 and this clause 6.3 will reapply until the Design Plan is approved by Powercor.

- 6.4** Powercor's receipt or review of, or comment on, the Design Plan will not relieve the Customer from any responsibility whatsoever for any errors, omissions or non-conformances.
- 6.5** The Customer acknowledges and agrees that:
- (a) it has not relied on any documents or information or the accuracy or completeness of any documents or information; and
 - (b) it will use and rely on its own endeavours and efforts to satisfy itself as to the accuracy or completeness of any documents or information, provided to the Customer and/or Project Manager by or on behalf of Powercor.

7 Design Plan Changes

- 7.1** If the Customer wishes to change the Design Plan previously approved under clause 6, the Customer must submit the proposed Design Plan changes to Powercor for approval. Any proposed Design Plan changes must incorporate and satisfy the requirements of Powercor's Technical Standards.
- 7.2** Powercor will endeavour to review any Design Plan changes within 10 Business Days of receipt of the proposed changes. Powercor may at its sole discretion either approve the Design Plan changes, or, reject the Design Plan changes if the Design Plan changes do not comply with Powercor's Technical Standards. If Powercor rejects the Design Plan changes, Powercor must provide the Customer with written reasons why it believes the Design Plan changes are not in accordance with Powercor's Technical Standards.
- 7.3** If Powercor rejects a Design Plan change, the Customer must either:
- (a) re-submit a revised:
 - (i) Design Plan to Powercor for approval (in which case clause 7.2 will reapply); and

- (ii) Project Plan (if required) to take account of any timing changes to the Works that have resulted from the Design Plan change; or
 - (b) advise Powercor in writing that it does not wish to proceed with the proposed Design Plan change.
- 7.4** Powercor's receipt or review of, or comment on, the Design Plan changes will not relieve the Customer from any responsibility whatsoever for any errors, omissions or non-conformances.

8 Permits, Approvals and Licences

The Customer must obtain all necessary permits, approvals and licences for the Works to commence from all the relevant authorities having jurisdiction in connection with the Works or the carrying out of the Works including without limitation any relevant water, gas and telecommunication providers and applicable local council.

9 Construction of the Works

- 9.1** The Customer must ensure all materials and equipment used or installed in the Works by the Customer or its contractors:
- (a) conform to Powercor's Technical Standards, Electricity Laws and all applicable Australian standards and guidelines;
 - (b) are of sound quality, durability and workmanship, and unless otherwise agreed, are new;
 - (c) are fit for the purpose for which they are to be used; and
 - (d) are free from all liens, charges and encumbrances.
- 9.2** The Customer must only engage contractors to perform the Works who are:
- (a) Recognised Contractors for electrical related Works or contractors who are, in Powercor's reasonable opinion, otherwise suitably skilled, experienced, licensed and competent to undertake the relevant category of work;
 - (b) VEDN Civil Contractors for civil related Works, or contractors who are otherwise suitably skilled, experienced and competent for the particular civil Work they are to undertake.
- 9.3** Before commencing the construction of the Works, the Customer must ensure that it and its contractors are familiar with Powercor's specific requirements for the Works.
- 9.4** If in carrying out the Works the Customer or its contractors are required to work near Powercor's overhead or underground assets, the Customer must ensure it and its contractors comply with the WorkSafe Victoria publication titled "Framework For Undertaking Work Near Overhead and Underground Assets – A Guide to the No Go Zones" a copy of which may be obtained from the WorkSafe Victoria website (www.worksafe.vic.gov.au).
- 9.5** The Customer must execute and complete the Works so that, when completed, the Works will be fit for their intended purpose and comply with

all relevant Electricity Laws, Powercor's Technical Standards and applicable Australian standards and guidelines. This obligation remains unaffected notwithstanding:

- (a) the requirement for the Design Plan to be prepared in accordance with Powercor's Technical Standards;
 - (b) any receipt or review of, or comment or approval of the Design Plan by Powercor.
- 9.6** The Customer is responsible for all reinstatement work that may be required as a result of the Works. All such reinstatement work must be completed before Practical Completion.

10 Inspection, Audit and Records

- 10.1** The Project Manager must give the Responsible Officer not less than 2 Business Days written notice before any work specified in item 1 of Schedule 1 is undertaken as part of the Works.
- 10.2** The Customer must give Powercor, the Responsible Officer and any other nominated representatives of Powercor full access to the Works at all reasonable hours for the purpose of inspecting and conducting quality assurance checks and audits of the Works and the Customers compliance with this Agreement. The Customer must ensure safe access to and egress from the Works is provided for the purposes of this clause 10.2.
- 10.3** Within 10 Business Days of completing any inspection, check or audit under clause 10.2, Powercor will notify the Customer in writing of any non-compliance discovered. The Customer must rectify all non-compliances identified by Powercor.
- 10.4** The Customer must retain all records and documentation associated with the Works to demonstrate compliance with the requirements of this Agreement. If the Responsible Office requests access to, or copies of, such records and documentation or other information, the Customer must provide the Responsible Officer with the necessary access, copies or information within 5 Business Days of receipt of a written request from the Responsible Officer.

11 Network Compliance Audit

- 11.1** The Customer must engage an approved Network Compliance Auditor to conduct a Network Compliance Audit of the Works. Any non-conformances listed by the Network Compliance Auditor in the Network Compliance Audit result must be rectified by the Customer.
- 11.2** For the avoidance of doubt, the Customer must not issue a Certificate of Practical Completion pursuant to clause 12.1 until the Customer has complied with clause 11.1.
- 11.3** The Customer must give the Network Compliance Auditor full access to the Works at all reasonable hours for the purpose of conducting the Network Compliance Audit. The Customer must ensure safe access to and egress from the Works is provided for the purposes of this clause 11.3.

12 Practical Completion

- 12.1** When the Customer considers that the Works have reached Practical Completion and are otherwise satisfactorily completed in accordance with this Agreement, the Customer must issue a signed Certificate of Practical Completion to the Responsible Officer. Except where the Customer is required to comply with clause 12.4, the Customer, the Project Manager and the Customer's employees, agents and contractors must not access, alter or otherwise deal with the Works in any manner whatsoever after a Certificate of Practical Completion has been issued to Powercor by the Customer.
- 12.2** Within 10 Business Days of receipt of the Certificate of Practical Completion signed by the Customer, the Responsible Officer will inspect the Works to verify whether the Works have reached Practical Completion and are otherwise satisfactorily completed in accordance with this Agreement.
- 12.3** If the Responsible Officer determines that there are defects or omission in the Works, the Responsible Officer will:
- (a) notify the Customer in writing of the defects or omissions;
 - (b) not countersign the Certificate of Practical Completion; and
 - (c) return the Certificate of Practical Completion to the Customer.
- 12.4** If the Customer receives a notice from Powercor pursuant to clause 12.3, the Customer must, upon receiving such notice, promptly rectify the defects or omissions. When the Customer considers that the Works have been properly rectified so that they have reached Practical Completion and are otherwise satisfactorily completed in accordance with this Agreement, the Customer must reissue a signed Certificate of Practical Completion to the Responsible Officer.
- 12.5** Clause 12.2 to 12.4 inclusive will continue to reapply until the Responsible Officer is satisfied that the Works have reached Practical Completion and are otherwise satisfactorily completed in accordance with this Agreement.
- 12.6** If the Responsible Officer has verified that the Works have reached Practical Completion and are otherwise satisfactorily completed in accordance with this Agreement, the Responsible Officer must countersign the Certificate of Practical Completion upon which the Works will, subject to clause 13.2, become the property of Powercor. The Responsible Officer must provide the Customer with a copy of the countersigned Certificate of Practical Completion within 5 Business Days of it being signed by Powercor.

13 Risk

- 13.1** The Customer is solely responsible for all risks and liabilities associated with the Works until risk in the Works passes to Powercor. Risk in the Works will pass to Powercor on the earlier of:
- (a) the date Powercor ties the Works into its electricity distribution network; or
 - (b) 20 Business Days after the date the Certificate of Practical Completion has been countersigned by Powercor.

13.2 If:

- (a) Powercor discovers the Works are defective or damaged at the time Powercor proposes to tie the Works into its electricity distribution network; and
- (b) risk in the Works has not passed to Powercor in accordance with clause 13.1,

Powercor may, at its sole discretion:

- (1) at the Customers risk and expense, rectify the defective or damaged Works. Powercor will notify the Customer in writing within 2 Business Days of carrying out such rectification work. Provided Powercor has issued the Customer a tax invoice, the Customer agrees to pay Powercor on demand the costs incurred by Powercor in carrying out such rectification work; or
- (2) cancel the Certificate of Practical Completion countersigned by the Responsible Officer under clause 12.7, by giving the Customer notice in writing. Upon receipt of the cancellation notice, the Customer must, at its own risk and expense, rectify the defective or damaged Works. After the Customer has rectified the defective or damaged Works, the Customer must comply with the requirements of clause 12.

14 Defects Liability Period

14.1 The Customer warrants that the Works will be free of any defects due to faulty materials, design or workmanship during the Defects Liability Period.

14.2 If any defects become apparent in the materials, design or workmanship forming part of the Works during the Defects Liability Period, Powercor will, at the Customer's cost, rectify such defects. The Customer must indemnify Powercor on demand against all reasonable costs incurred by Powercor in rectifying such defects.

15 Exclusion of Liability

To the fullest extent permitted by law, Powercor will not be liable to the Customer, whether in contract, tort (including negligence), under statute or in any other way whether due to negligence, deliberate conduct or any other cause or any event, act or omission resulting from or in any way connected with this Agreement.

16 Termination

Notwithstanding any other provision of this Agreement:

- (a) Powercor may terminate this Agreement at any time by giving the Customer 14 days prior written notice if:
 - (i) the Customer, the Project Manager or the Customer's employees, agents or contractors engage in any act of dishonesty, serious misconduct or serious neglect of duty; or

- (ii) the Customer is in breach of any of the terms of this Agreement and fails to rectify such breach within 14 days of receiving written notice from Powercor;
- (b) this Agreement will immediately terminate 12 months after the Commencement Date if the Customer has not provided Powercor with a Design Plan within the time period specified in clause 6.1.

17 General

17.1 Assignment and Transfer

The Customer must not assign any of its rights or transfer any of its obligations under this Agreement without the prior written consent of Powercor which will not be unreasonably withheld or delayed. Powercor may assign any of its rights or transfer any of its obligations under this Agreement in its absolute discretion.

17.2 Governing Law and Jurisdiction

This Agreement is governed by the laws in force in Victoria. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

17.3 Waiver

A party's failure or delay to exercise a power, right, authority, discretion or remedy does not operate as a waiver of that power, right, authority, discretion or remedy. The waiver of a breach of any of the provisions of this Agreement or a power, right, authority, discretion or remedy under this Agreement must be in writing and executed by the waiving party

17.4 Notices

Any notice, consent, approval or other communication that must or may be given or made to a party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) delivered or posted to that party at its address set out in the Details.
- (b) faxed to that party at its fax number set out in the Details.

17.5 Variation

The parties may only vary this Agreement by agreement in writing.

17.6 Entire Agreement

This Agreement sets out all the terms agreed by the Parties. The Customer acknowledges that it has not relied on any representation, inducement, warranty or promise which is not contained in this Agreement.

17.7 No Agency or Partnership

No party is an agent, representative, partner or fiduciary of the other party by virtue of this Agreement.

EXECUTED as an Agreement

Executed as an agreement for and on behalf of the **Customer** by its authorised representative in the presence of:

Signature of witness

By executing this agreement the signatory warrants that the signatory is duly authorised to execute this agreement on behalf of the **Customer**

Name of witness

Name of signatory

Executed as an agreement for and on behalf of **Powercor Australia Ltd ABN 89 064 651 109** by its authorised representative in the presence of:

Signature of witness

By executing this agreement the signatory warrants that the signatory is duly authorised to execute this agreement on behalf of **Powercor Australia Ltd**

Name of witness

Name of signatory

Schedule 1

1	Works requiring prior notice to the Responsible Officer
	(a) Erection of any poles. (b) Commencement of any cable laying or cable jointing. (c) Proving of ducts. (d) Backfilling of trenches. (e) Testing of the Works. (f) Other aspects of construction of the Works as deemed necessary by the Responsible Officer.
2	Description of the electrical Works
	Enter Details of electrical works

Schedule 2

REQUEST FOR AUDIT OF CUSTOMER PROVIDED DESIGN SERVICES

All invoices for services under this agreement will be issued to :

Tax Invoice recipient :		
Billing Address :		
Email :		Telephone :

Note: providing incorrect information or requesting a change in billing details will incur additional costs.

I hereby request the following Audit of Customer Provided Design Services (*Indicate as appropriate*).

PROVISION OF SYSTEM PLANNING SCOPE:		(Select one of the following) ↓
SP1	Single Stage of a development < 15 (less than)	Fee: \$970.00
SP2	Single Stage of a development 15 to 30 Lots	Fee: \$1,254.00
SP3	Single Stage of a development > 30 (greater than)	Fee: \$1,756.00
SP4	Initial Overall development plan submission	Fee: \$1,923.00
SP5	Major Augmentation, quotation on request	Fee: TBA
SP6	Provision of adjacent distribution asset plans	Fee: \$00.00

All fees are GST Exclusive

PLAN FOR APPROVALS :		(Select one of the following) ↓
PA1	Single customer Overhead / Underground	Fee: \$819.00
PA2	Underground Residential development < 15 (less than)	Fee: \$1,087.00
PA3	Underground Residential development 15 to 30 Lots	Fee: \$1,421.00
PA4	Underground Residential development > 30 (greater than)	Fee: \$1,672.00
PA5	Commercial or Industrial subdivision, multiple customers of Public Lighting schemes up to 4 sheets	Fee: \$1,672.00
PA6	Quotation for development with more than 4 sheets	Fee: TBA
PA7	Public Lighting schemes (non-greenfield and/or include joint use poles)	Fee: \$1,756.00
Design/Drafting plan resubmission for approval, due to a scope change or non conformance to standards, will be invoiced \$502 (GST excl) per resubmission.		

All fees are GST Exclusive

Schedule 3

Minimum Project Plan requirements for the Works:

Underground Residential Estate		
No	Task	Planned Date
1	Submit overall plan of subdivision to Powercor	
2	Submit staged subdivision plan to Powercor	
3	Road and drainage plan completion	
4	Submit electrical design plan to Powercor	
5	Completion of kerb and channel	
6	Electrical cable installation and jointing start date	
7	Open trench audit proposed date	
9	Constructed detail submission to Powercor	
10	Network Compliance Audit submission to Powercor	
11	Certificate of Practical Completion submission to Powercor	
Overhead		
No	Task	Planned Date
1	Submit electrical design plan to Powercor	
2	Erect poles and run conductor	
3	Network Compliance Audit submission to Powercor	
4	Certificate of Practical Completion submission to Powercor	
Underground		
No	Task	Planned Date
1	Submit electrical design plan to Powercor	
2	Electrical cable installation and jointing start date	
3	Open trench audit proposed date	
4	Network Compliance Audit submission to Powercor	
5	Certificate of Practical Completion submission to Powercor	