

SUPERPOWER

Powering Smarter Sustainable **ENERGY**

Solar Power Solution
Terms and Conditions
(As of July 2018)

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1 DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Agreement the following definitions apply:

Actual Production means the actual electricity production (in kWh) of the Solar Module in a 12 month period.

Design means the design for the Solar Module and the scope of work required to complete the installation of the same as set out in Schedule 1.

Estimated Production means the electricity production projection (in kWh) of the Solar Module, which for the initial 12 months after the Start Date is as set out in the Specific Terms and is based on SuperPower's analysis of information provided by Client and Property Owner in relation to its energy requirements, and thereafter will be the Actual Production for the previous 12 month period.

General Terms means these general terms.

GST means goods and services tax imposed under the GST Act at the rate that applies from time to time or any similar tax under any replacement legislation.

GST Act means the Goods and Services Tax Act 1985.

HSW Act means the Health and Safety at Work Act 2015, any regulations under that Act, and any other approved codes of practice, standards or rules relating to health and safety.

Insolvency Event means an event by which a party:

- a) becomes or is deemed to be insolvent or bankrupt;
- b) is placed under receivership, receivership and management, liquidation or official management or administration;
- c) is liquidated, wound up or a resolution is made for such liquidation or winding up;
- d) is made subject to any arrangement, assignment or composition (otherwise than as a result of voluntary corporate reconstruction); or
- e) is subject to any other event that has a similar effect to any of the events described in this definition.

Internet Connection means an active broadband internet connection to the Property of at least 1Mbps.

Monthly Payment means the monthly amount to be invoiced by SuperPower and paid by Client each year from the Start Date (and each anniversary of the Start Date), calculated in accordance with Schedule 2;

Price means the unit price for each kWh of electricity as set out in the Specific Terms [and adjusted in accordance with the Pricing Schedule];

Property means the land and buildings at the address set out in the Specific Terms;

Purchase Price has the meaning given to it in clause 9.2;

Settlement Date has the meaning given to it in clause 9.1;

Solar Module means the solar equipment and any ancillary accessories described in the Design and used in connection with the solar equipment, excluding any roof mounting equipment;

Special Terms means the special terms set out this Agreement, if any;



Specific Terms means the specific terms beginning on page 2 of this Agreement;

Start Date means the first day of the month following the date that the Solar Module is switched on and connected to the electricity distribution grid, which may be different to the date Client's electricity retailer connects the meter;

Tax Invoice means an invoice that complies with the GST Act;

SuperPower Group means SUPERPOWER TECHNOLOGIES LIMITED and its related companies (as defined in the Companies Act 1993);

Wash Up Amount means the amount to be invoiced by SuperPower and paid by the Client, or credited by SuperPower, after each anniversary of the Start Date, calculated in accordance with Schedule 2;

Working Day means a day of the week other than a Saturday, Sunday or any other day which is a public holiday in Auckland, New Zealand.

1.2 In this Agreement:

- (a) the words "including" and "include" or "such as" are not words of limitation;
- (b) a reference to any legislation includes reference to that legislation as amended, re-enacted or substituted and any regulations under that legislation;
- (c) a reference to a party includes that party's employees, agents, successors, permitted assigns, and other representatives.

2 TERM AND TERMINATION

2.1 This Agreement commences on the date it is signed by all parties and expires on the End Date, unless terminated earlier in accordance with this clause.

2.2 Any party may terminate this Agreement with immediate effect by written notice to the other parties if:

- (a) another party breaches any of its material obligations under this Agreement (including any obligations regarding health and safety); and
 - (i) the breach is not capable of being remedied; or
 - (ii) the breach is capable of being remedied and the breaching party fails to remedy the breach to the other party's satisfaction within 14 days after notice in writing has been given requiring such breach to be remedied.
- (b) an Insolvency Event occurs in relation to another party.

2.3 SuperPower may terminate this Agreement by notice to Client and Property Owner and Property Owner:

- (a) at any time before the Solar Module is installed at the Property; or
- (b) in accordance with clause 3.4(a) (invalidation of manufacturer's warranty by Client and Property Owner).

2.4 If this Agreement is terminated by Client and Property Owner under clause 2.2:

- (a) SuperPower will remove the Solar Module from the Property pursuant to clause 2.5(a); and



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- (b) Client and Property Owner acknowledges that it will no longer have access to, or a right to use, the Solar Module or any software or other intellectual property provided by SuperPower.
 - 2.5 On termination of this Agreement by SuperPower under clause 2.2 or 2.3:
 - (a) SuperPower will remove the Solar Module from the Property (but not the roof mounting equipment) at a convenient time arranged with Client and/or Property Owner.
 - (b) Client and Property Owner must meet SuperPower's reasonable costs of removing the Solar Module under this clause.
 - 2.6 Termination or expiry of this Agreement will not affect any rights or obligations accrued up to and including the end of this Agreement remain unaffected. Any terms of this Agreement that are intended (expressly or impliedly) to continue beyond the end of this Agreement will continue.
- 3 CLIENT AND PROPERTY OWNER'S OBLIGATIONS**
- 3.1 Client and Property Owner warrants that it will:
 - (a) ensure that the Solar Module receives adequate sunlight and not cause, permit or allow to exist any condition or circumstance which would impede the Solar Module from receiving adequate sunlight and or impede the intended operation of the Solar Module.
 - (b) make provision for the supply of electricity to the Property by a electricity provider approved by SuperPower and notify SuperPower if Client intends on changing its electricity supplier;
 - (c) maintain at its own cost a functioning Internet Connection; and
 - (d) not interfere with, modify, move or reinstall the Solar Module in any way and acknowledge that to do so may endanger life, risk damage to property and or invalidate warranties provided by the manufacturers of the Solar Module.
 - 3.2 Client and Property Owner grants SuperPower the right to access the Property on reasonable notice, and to enter any buildings, in order to:
 - (a) install, inspect, operate, replace, remove, maintain, upgrade, construct, repair or add to the Solar Module; or
 - (b) take any other action reasonably necessary in connection with this Agreement.
 - 3.3 Client and Property Owner acknowledges that if any electrical works carried out at the Property (whether before or after the installation date) are not carried out in accordance with all applicable laws (including in relation to wiring), the functioning and the performance of the Solar Module may be affected.
 - 3.4 If, notwithstanding clause 3.1(d), Client and Property Owner:
 - (a) does anything that invalidates a manufacturer's warranty, SuperPower may terminate this Agreement with immediate effect and require the Client to purchase the Solar Module as its replacement value (as determined by SuperPower at the time), and the provisions of clause 9 will apply, except that SuperPower will notify Client of the Settlement Date and the Purchase Price; or



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(b) makes any modifications, improvements, revisions or additions to the Solar Module, but clause 3.4(a) does not apply, then any such modification, improvement, revision or addition will become part of the Solar Module and shall be SuperPower's property.

3.5 If Client and Property Owner wants to make any repairs or improvements to the Property that could interfere with the Solar Module (such as repairing or replacing the roof where the Solar Module is located), Client and Property Owner agrees to notify SuperPower, who, if necessary, will arrange for the Solar Module to be removed or relocated in a way that does not void any manufacturer's warranties. Any such removal or relocation will be at Client and Property Owner's cost.

4 INVOICING AND PAYMENT

4.1 On or before the 10th day of each month, SuperPower will provide a Tax Invoice to Client for the Monthly Payment for that month. Unless otherwise stated all monetary amounts are stated in New Zealand dollars and are plus GST, if any.

4.2 After each anniversary of the Start Date, SuperPower will calculate the actual amount of electricity produced by the Solar Module in the preceding 12 month period (the "Actual Production") and will send Client:

(a) a statement setting out (i) the Actual Production, (ii) the total amount payable by Client for the Actual Production, being Actual Production x Price, and (iii) the total amount paid by Client for the relevant 12 month period being Estimated Production x Price; and

(b) if the Wash Up Amount is a negative number, a credit note for the Wash Up Amount will be included with the next Tax Invoice for the Monthly Payment; or

(c) if the Wash Up Amount is a positive number, a debit note for the Wash Up Amount will be included with the next Tax invoice for the Monthly Payment.

4.3 If Client does not require all electricity generated by the Solar Module at the Property, Client is entitled to make other arrangements for that surplus electricity, including exporting the surplus into the network for Client's benefit, subject to and in compliance with its individual agreement with its electricity retailer.

4.4 Client will pay SuperPower's Tax Invoices (including any debit note issued in accordance with clause 4.2(c)) on or before the 20th day of the month of each Tax Invoice.

4.5 If Client does not pay the amounts set out in any Tax Invoice in full on the due date, SuperPower may charge interest at a rate of 3% per annum above BNZ's 90 day bank bill rate, calculated on a daily basis on the overdue amount. If SuperPower charges the default interest, then default interest will be calculated from the date the overdue amount became payable until the date it is actually paid. If any Tax Invoice remains unpaid 30 days after the due date and the Tax Invoice is not the subject of a genuine dispute, then SuperPower may cancel this Agreement and send Client another Tax Invoice for the sale of the Solar Module, which Client will pay within 10 Working Days of the date of such Tax Invoice. The price of the Solar Module will be determined in accordance with the Pricing Schedule.



5 THE SOLAR MODULE

Installation

5.1 SuperPower will:

- (a) arrange for the installation of the Solar Module at the Property in compliance with the Design;
- (b) ensure the Property is kept as clean and tidy as reasonably possible during installation of the Solar Module;
- (c) use its best endeavours to remedy any fault or defects in the installation of the Solar Module, unless these are caused by any other person at the Property other than SuperPower, or are due to any existing wiring problems or other condition of the Property; and
- (d) use its reasonable efforts upon completion of the installation to obtain and provide to Client and Property Owner:
 - (i) a certificate of compliance from a certified electrician; and
 - (ii) a record of inspection from a certified electrical inspector in relation to the installed Solar Module.

5.2 Client and Property Owner will:

- (a) facilitate (at Client's own cost) for the installation of a two-way meter at the Property by the Client's electricity supplier no later than 10 working dates prior to commencement of the installation of the Solar Module;
- (b) procure, maintain and provide to SuperPower on demand, any and all licenses, permits, consents, approvals and certifications necessary for the installation of the Solar Module at the Property and must immediately alert SuperPower if any such documents are revoked, cancelled and or modified;
- (c) allow SuperPower reasonable access to the Property to carry out its installation of the Solar Module;
- (d) provide any reasonable assistance requested by SuperPower to facilitate the installation, including by providing SuperPower:
 - (i) all relevant information relating to the Property;
 - (ii) access to any requested amenities, services and storage areas (if requested by SuperPower).
- (e) allow SuperPower to switch off the electricity at the Property for so long as is required to install the Solar Module; and
- (f) not switch on and or attempt to switch on the Solar Module before the record of inspection under clause 5.1(d)(ii) is issued, received and approved by SuperPower.

5.3 If during the installation of the Solar Module, SuperPower determines additional work (unspecified in the Design) is required to complete the installation of the Solar Module, then:



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- (a) before embarking on such additional work SuperPower must notify Client of the additional work required and provide Client with an updated Design with an estimate of additional costs required for completion of the additional work;
- (b) if Client accepts the updated Design including the additional costs required for completion of the additional work, Client must pay the additional costs (if any) in cleared funds to SuperPower before SuperPower embarks on any further work to install the Solar Module;
- (c) if Client rejects the updated Design and or does not pay any the additional costs within 5 days of receipt of the updated Design, SuperPower may at its sole discretion unilaterally terminate this Agreement with immediate effect. SuperPower fully reserves its rights under this Agreement if it elects to terminate the Agreement pursuant to this clause; and
- (d) a termination by SuperPower under this clause is not deemed a waiver of any covenants, obligations, warranties or duties accrued in favour of SuperPower under this Agreement.

6 PERFORMANCE

- 6.1 Client has an option to request in writing from SuperPower, and SuperPower must provide the Client copies of the manufacturer's warranties (if any) SuperPower has received in respect of the Solar Module, but neither SuperPower nor the SuperPower Group makes any representations, warranties or guarantees (express or implied) in relation to the performance of the Solar Module.
- 6.2 Client acknowledges that the actual performance of the Solar Module and the quantity of electricity it produces may vary depending on a number of factors outside the control of the parties including:
 - (a) maintenance and condition (including fair wear and tear and sterility) of the panels;
 - (b) availability and intensity of sunlight;
 - (c) atmospheric conditions including cloud cover, relative humidity;
 - (d) heat build-up in the Solar Module componentry;
 - (e) locality and angulation of the panels comprising part of the Solar Module;
 - (f) the surrounding terrain including any vegetation and architectural features.
- 6.3 Client releases SuperPower from all liabilities, duties and responsibilities in respect of the performance of the Solar Module.
- 6.4 Client and Property Owner agrees to grant SuperPower the exclusive authority to service and maintain the Solar Module and any ancillary componentry during the Term. Client and Property Owner must immediately notify SuperPower in writing if it suspects that the Solar Module may require servicing, maintenance, repair, cleaning, and or is damaged, inoperative or is visibly unsafe or is unlawfully removed from the Property.
- 6.5 If SuperPower receives notice under clause 6.3, it will first attempt to resolve the issue via telephone instruction, if SuperPower fails to resolve the issue by telephone, it will schedule a time with in consultation with Client and Property Owner to arrange for a technician callout to the Property.



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- 6.6 If a technician callout is required, Client and/or Property Owner must reimburse SuperPower for the costs of the technician callout and the reasonable costs incurred if:
- (a) the issue is due to an existing condition present at the Property or is caused by an act or omission of any person other than SuperPower;
 - (b) Client and Property Owner (including its employees and agents) by way of an act of omission caused damage to the Solar Module;
 - (c) no damage to the Solar Module is found by the technician; or
 - (d) the issue or damage is otherwise unrelated to the Solar Module;

in which case, costs of the technician call out (at the rates set out in Schedule 2) will be payable by the Client and/or Property Owner in accordance to clause 4 and within 5 days of receipt of SuperPower's invoice.

7 RETENTION OF TITLE

Solar Module to remain chattel

- 7.1 Client and Property Owner acknowledges that the Solar Module is not and cannot be construed as a fixture to any building and SuperPower at all times owns and retains the legal and beneficial ownership in the Solar Module, subject to clause 7.3.
- 7.2 Client and Property Owner acknowledges the fixing of the Solar Module to buildings, land or other things does not constitute a fixture, and at all times shall be treated on the basis that it is a chattel.
- 7.3 Client can obtain title to the Solar Module upon exercise of its option to purchase in accordance with clause 9.
- 7.4 Client and Property Owner agrees to hold the Solar Module as SuperPower's trustee and or fiduciary agent.
- 7.5 Client acknowledges that any and all tax credits, incentives, rebates or any other non-electricity attributes of the Solar Module are SuperPower's and SuperPower has the exclusive right to enjoy and use all such benefits, whether such benefits exists now or in the future. Client acknowledges that it will not enter any agreement with its electricity retailer that would entitle that electricity retailer to claim any such benefits and Client agrees to cooperate with SuperPower so that SuperPower may claim any such benefits. This may include, to the extent permitted by law, entering into an agreement, filing registrations and or making applications for rebates from the government or a local utility and giving these benefits to SuperPower. SuperPower agrees that any feed-in tariffs will be for Client's benefit.

Personal Property Securities Act 1999

- 7.6 Client agrees:
- (a) to provide SuperPower all information requested and agree to execute all documents as required by SuperPower relating to any security interests or purchase money security interest that may from time to time be created pursuant to this Agreement including for amounts due under this Agreement that have not been paid in full;



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- (b) that SuperPower may from time to time file a financing statement over Client's business, including fixtures and other assets of Client's business or by further agreement over other assets owned by Client;
- (c) not to enter into any transaction with any other person that would create the perceived entitlement to file a financing statement over the Solar Module or otherwise subject the Solar Module to a financing statement and to ensure the Solar Module is free and clear of all claims, levies, liens or otherwise any legal processes unrelated to SuperPower and Client must at its own cost defend SuperPower against all claims;
- (d) that SuperPower has the right to file any financing statement to confirm SuperPower's ownership, title and interest in the Solar Module;
- (e) the terms 'security interest' and 'financing statement' and 'purchase money security interest' have the meanings given by the Personal Properties Securities Act 1999.

8 HEALTH AND SAFETY

8.1 The parties agree to work with each other in good faith to consult and co-operate in order to comply with each other's respective obligations under the HSW Act (and related legislation), local authority regulations, by laws and this Agreement.

8.2 SuperPower will:

- (a) comply with the HSW Act;
- (b) ensure, so far as is reasonably practicable, the health and safety of its workers and those who are influenced or directed by SuperPower while carrying out work for SuperPower;
- (c) ensure that the health and safety of other persons is not put at risk from work carried out by SuperPower; and
- (d) ensure, so far as is reasonably practicable, that the installation of the Solar Module is without risks to the health and safety of any persons who:
 - (i) use or install the Solar Module; or
 - (ii) are at or in the locality of the Property and may be affected by that use or activity.

8.3 Client and Property Owner will:

- (a) comply with the HSW Act;
- (b) in relation to any workplace under its management or control:
 - (i) immediately notify SuperPower of any known hazards to which a worker or any person may be exposed;
 - (ii) make sure the workplace is without risks to the health and safety of any person.

8.4 Client and Property Owner will immediately notify SuperPower of any known hazards or special health and safety requirements for the Property and SuperPower will use reasonable endeavours to comply with those.



9 PURCHASE OF SOLAR MODULE

- 9.1 SuperPower grants Client and Client accepts the grant of an option to purchase the Solar Module after the first anniversary of the Start Date, or if Property Owner sells the Property, by providing notice in writing to SuperPower, containing the date on which it wishes to settle the purchase being a Working Day not less than one month, and not more than 3 months, after the date of the notice (the "Settlement Date").
- 9.2 Following receipt of a notice, SuperPower must issue Client with a Tax Invoice for the purchase price plus GST (if any) for the Solar Module in accordance with the Pricing Schedule ("Purchase Price"), and Client must pay the Tax Invoice in full in cleared funds on the Settlement Date. Client and SuperPower agree the Purchase Price is the lowest price for the sale and purchase of the Solar Module on the date Client agrees to acquire the Solar Module, if payment would have been required in full at the time the first right in the Solar Module was transferred.
- 9.3 Upon SuperPower's receipt of the Purchase Price in cleared funds:
- (a) title to and risk in the Solar Module will pass to Client on the Settlement Date free of all encumbrances and otherwise on an "as is, where is" basis;
 - (b) this Agreement will terminate on the Settlement Date, and Client will cease to have access to or a right to use software or other intellectual property provided by SuperPower.

10 INSURANCE, LIABILITY AND INDEMNITY

- 10.1 Client and Property Owner will check whether its insurer consents to the installation of the Solar Module at the Property, and acknowledges that failure to seek such consent (if required) may invalidate Client and Property Owner's insurance cover in respect of the Property.
- 10.2 In respect of this Agreement, SuperPower's total liability to Client and Property Owner, whether in contract, tort (including negligence) or otherwise for any other costs, losses, liabilities, damages and/or expenses however arising whether direct or indirect, will be limited to:
- (a) physical loss or damage to property or equipment which is directly caused by negligence or breach of this Agreement; and
 - (b) \$[10,000] for any single event or series of related events, and \$[50,000] with respect to any events or series of events occurring in any period of 365 consecutive days.
- 10.3 Notwithstanding any other clause in this Agreement SuperPower will not be liable to Client and Property Owner under or in relation to this Agreement for:
- (a) any loss of profit, loss of revenue, loss of use, loss of goodwill, loss of business or anticipated savings, loss of data or contracts (whether direct or indirect), and/or
 - (b) any indirect or consequential losses.
- 10.4 SuperPower will not be liable to Client and Property Owner for any failure to perform obligations set out under this Agreement to the extent such failure was caused by an



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event beyond the reasonable control of either party or their contractors (such as an act of God, weather conditions, war, natural disaster, sabotage, or act of terrorism).

10.5 Client and Property Owner agrees that (other than as expressly set out in this Agreement) all those representations and warranties (statutory, express or implied) that may lawfully be excluded, are expressly excluded from this Agreement.

10.6 To the fullest extent permitted by law, Client and Property Owner agrees to indemnify the SuperPower Group, (including its employees, officers, directors, agents, successors and assigns) from any third party claims, actions, costs, expenses (including reasonable solicitor's fees and expenses), damages, liabilities, penalties, losses, obligations, injuries, demands and liens of any kind or nature arising out of or in connection with Client and Property Owner's negligence or wilful misconduct except to the extent caused by SuperPower's negligence or wilful misconduct. This clause shall survive termination or expiration of this Agreement.

10.7 The parties agree to take all reasonable steps to mitigate any losses suffered or incurred under or in connection with this Agreement.

11 COLLECTION OF INFORMATION, PRIVACY AND PUBLICITY

11.1 Client agrees that SuperPower can:

- (a) collect (and that SuperPower owns) any information from the Solar Module including information relating to the performance of the Solar Module, generation, consumption information and electrical characteristics ("Technical Information") and any Technician Information collected is and remains the property of SuperPower;
- (b) remotely access the Solar Module in order to gather any Technical Information;
- (c) at its election store the Technical Information locally on the Solar Module and or export it using Client Internet Connection;
- (d) use the Technical Information for diagnostic, monitoring, performance management, data analysis, marketing and Client agrees to its use by any member of the SuperPower Group in the course of its business;
- (e) disclose the technical information to any other person, including the manufacturers of the Solar Module and
- (f) take photos of the Property (where the photos will show the Solar Module at the Property) for quality assurance, internal training purposes and marketing materials.

11.2 To the extent any such data is personal information for the purposes of the Privacy Act 1993, SuperPower will collect, store, process and use such information at all times in accordance with the Privacy Act 1993. Client and Property Owner has the right to access its own personal information and to request that such personal information be corrected if it is wrong, SuperPower will not sell or otherwise distribute such personal information without Client and Property Owner's prior written consent.

11.3 Client and Property Owner grants SuperPower Group the right to publicly use, display, share, and advertise the photographic images, project details, price and any other non-personally identifying information relating to this Agreement.



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- 11.4 Client and Property Owner will treat the contents of this Agreement, and any information regarding SuperPower that it receives, as confidential and will not disclose the contents and any such information to any person, without SuperPower's prior written consent.

12 ASSIGNMENT

- 12.1 Property Owner will provide SuperPower with at least 60 days' written notice of its intention to sell or lease the Property. If Property Owner sells the Property, it must either:
- (a) assign this Agreement to the new owner or tenant of the Property (the "Incoming Owner"), who must sign an assignment agreement assuming all of Client's rights and obligations under this Agreement, in a form approved by SuperPower; or
 - (b) purchase the Solar Module in accordance with clause 9.
 - (c) For the avoidance of doubt, if Property Owner cannot procure the Incoming Owner to enter into an agreement to assign this Agreement without any amendment to the terms contained therein, then this clause 12.1(a) shall be deemed not to have been complied with and clause 12.1(b) shall apply.

13 DISPUTES

- 13.1 The parties agree that any dispute of whatever nature arising between SuperPower and Client and/or Property Owner is to be notified in writing by the disputing party to the other (Dispute Notice). On receipt of a Dispute Notice, each party is to use its best endeavours to resolve the dispute by discussion, meeting and/or other informal means.
- 13.2 If the dispute is not resolved by discussion, meeting and/or other informal means within 10 Working Days of the date of the Dispute Notice, then the parties may agree to submit the dispute to arbitration pursuant to the Arbitration Act 1996 (excluding Clauses 4 and 5 of the Second Schedule), or, failing agreement, either party may pursue resolution of the dispute through legal proceedings before the New Zealand courts.
- 13.3 This clause 13 does not affect either party's right to seek urgent interlocutory relief.

14 GENERAL

- 14.1 Client and Property Owner agrees that SuperPower is entitled to assign, transfer the benefit and or burden, and or subcontract its obligations under this Agreement without Client and Property Owner's consent, including by assigning, transferring or selling the Solar Module and this Agreement, or any part of this Agreement to a third party. Client and Property Owner agrees that it can only assign, transfer and or subcontract its rights and obligations under this Agreement with SuperPower's prior written consent.
- 14.2 To the maximum extent permitted by law, Client and Property Owner agrees:
- (a) that the provisions of the Consumer Guarantees Act 1993 shall not apply in relation to this Agreement;
 - (b) that sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986, do not apply to the obligations of the parties under this Agreement; and
 - (c) that it is fair and reasonable that such provisions are contracted out of for the purposes of this Agreement.



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- 14.3 Any timeframe for delivery or installation of the Solar Module is, unless otherwise agreed in writing, an estimate only and is not of the essence to this Agreement.
- 14.4 Any notice required to be given under this Agreement must be in writing and is deemed to be properly given if left at, sent by prepaid letter or emailed to the last known address of the recipient.
- 14.5 Where any term of this Agreement is expressed to be for the benefit of the SuperPower Group, that term is intended to confer a benefit on the relevant member, enforceable under the Contracts (Privity) Act 1982.
- 14.6 If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, such invalidity, illegality or unenforceability will not affect the other terms or provisions of this Agreement, or the whole of this Agreement, and such term or provision will be deemed modified to the extent necessary in the court's opinion to make such term or provision enforceable, and the rights and obligations of the parties will be construed and enforced accordingly, preserving to the maximum permissible extent the intent and agreements of the parties set out in this Agreement.
- 14.7 This Agreement represents the entire agreement between the parties, in respect of the matters covered by it. It overrides all previous agreements in respect of those matters.
- 14.8 Other than changes to the Design agreed in accordance with clause 5.3, any change to this Agreement must be in writing and signed by both parties.
- 14.9 No waiver of any breach of this Agreement will be deemed to be a waiver of any other or any later breach. The failure of either party to enforce any term of this Agreement at any time will not be interpreted as a waiver of that term or any other terms.
- 14.10 This Agreement may be signed electronically and may be signed in a number of different copies/counterparts all of which constitute one and the same instrument.
- 14.11 This Agreement is governed by New Zealand law.

