

ENERGY MAKEOVERS' TERMS OF TRADE FOR SOLAR PV (VICTORIA)

This document sets out the terms and conditions for the supply and installation of your solar system and ancillary equipment. Please read it carefully and contact Us if You have any questions.

1. General

- (a) These Terms apply to all transactions between You and Us relating to the supply of the System and all related Goods and Services.
- (b) A variation or waiver of a provision of this Contract is ineffective unless in writing signed by the parties.

2. Quotes

- (a) We may provide You with a Quote. A Quote is valid for 14 days from the date of issue unless stated otherwise on the Quote.
- (b) Following the provision of a Quote to You, We are not obliged to commence work and no contract is formed until the Quote has been accepted by You by duly signing an Order form and returning it to Us. The Order form and Quote may be comprised in one document.
- (c) We reserve the right to amend any Quote before an Order has been accepted. We will notify You of any amendment as soon as practicable, upon which the amended Quote will be the Quote for the purposes of these Terms.

3. Orders

- (a) An Order is not valid if You have amended its terms or particulars in any way.
- (b) Placement of a valid Order by You signifies acceptance by You of these Terms and the most recent Quote.
- (c) We may in our absolute discretion cancel this Contract where:
 - (i) the System or any component of the System is unavailable for any reason whatsoever;
 - (ii) the Installation Address is not Solar Ready;
 - (iii) We are unable to obtain ready access to any part of the Installation Address,
 - (iv) We identify an apparent risk to health, safety or to property,
 - (v) relevant items of property, plant or equipment are incompatible or require upgrade or repair, or
 - (vi) Our contractor advises Us that the installation cannot proceed (including for any of the above reasons).
- (d) If We cancel this Contract under clause 3(c) we shall refund any deposit paid by You and You shall have no further claim against Us.

- (e) You may cancel this Contract not later than 14 Business Days before the Installation Date by giving Us written notice and paying Our Cancellation Fee. This clause is subject to clause 4.

4. Cooling Off Period & Deposits

- (a) If this Contract is an Unsolicited Consumer Agreement within the meaning of the Australian Consumer Law, You have a right to cancel this Contract within 10 business days from and including the day after You signed the Order.

You may exercise this right by indicating, in an oral or written notice to Us, an intention to terminate this Contract.

- (b) If this Contract is an Unsolicited Consumer Agreement within the meaning of the Australian Consumer Law, You are not required to pay any Deposit until the period referred to in clause 4(a) (cooling off period) has expired.

5. Solar Ready

- (a) We can only supply the System if the Installation Address is Solar Ready. We will advise You whether the Installation Address is Solar Ready before commencing the Installation Works.
- (b) If the Installation Address is not Solar Ready, We will advise You what additional works may be required in order to make the Installation Address Solar Ready.
- (c) You shall be solely responsible for making the Installation Address Solar Ready at Your own cost before the Installation Date.
- (d) We may (but shall not be obliged to) provide a separate quotation for carrying out any additional works to make the Installation Address Solar Ready, in which case clause 8 shall apply.

6. Authority to Install

- (a) You hereby authorise Us to install the System at the Installation Address and (if relevant) connect or arrange the connection of the System to the electricity grid.
- (b) You must grant Us all necessary access to the Installation Address to carry out the Installation Works.

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- (c) You must sign all documents and authorities that We reasonably require to facilitate the Installation Works and connection of the System to the electricity grid. If You are not the electricity account holder for the Installation Address You must procure that person to sign all such documents and authorities.
- (d) You warrant to Us that:
 - (i) You are the owner of the Installation Address;
 - (ii) You have obtained all necessary consents and approvals required for Us to install the System at the Installation Address including from any other owner or person holding a Security Interest;
 - (iii) You have obtained all necessary town planning approvals and consents required for Us to install the System at the Installation Address;
 - (iv) You have or will obtain all necessary consents and approvals to authorise the connection of the System to the electricity grid.
- (f) If a certificate of electrical safety cannot be issued because of pre-existing defect or condition in the electrical wiring (including switchboard and all existing electrical fittings and appliances) at the Installed Address, You must at Your expense promptly carry out such additional works as may be required to remedy such defect. Clause 5(d) shall also apply. For the avoidance of doubt this clause applies notwithstanding that We have installed the System or parts of the System – our preinstallation inspection of the wiring at the Installed Address is limited to a visual inspection which may not reveal all conditions or faults and no warranty as to the condition of such wiring is given or implied because we have commenced the Installation Works.

8. Variations to Your Order

- (a) You may request that Your Order be varied by providing a request in writing to Us. A request for a variation must be agreed to in writing by Us in order to have effect. We are not obliged to vary Your Order.
- (b) A revised Quote issued by Us in respect of the requested variation supersedes the original Quote. If the revised Quote only specifies additional work, the Quote for that additional work will be in addition to the immediately preceding Quote for the System.

9. Site Inspection Fee

If You (or Your representative) fail to attend or grant Us access to the Installation Address for a pre-arranged inspection, an Inspection Fee will be immediately payable by You to us and shall not be deducted from the Contract Price.

10. Additional Charges

- (a) Upon inspecting the Installation Address and before commencing the Installation Works, We may advise You that there will be Additional Charges payable by You.
- (b) Additional Charges for the Installation Works shall be in accordance with Our then current rates and prices.
- (c) You may:
 - (i) agree to pay such Additional Charges in which case We will amend the Quote and both parties shall sign such variation; or
 - (ii) cancel this Contract in which case we shall refund any deposit paid by You and You shall have no further claim against Us.
- (d) If a site revisit is deemed a customer related fault, the customer will be charged a \$150 callout fee, for site attendance and the first hour of labour, followed by \$80/hour thereafter.

11. Invoicing and payment

- (a) You shall pay the deposit specified in the Quote (if any) upon placing the Order (subject to clause

7. Installation

- (a) Any stated Installation Date is an estimate only and may be subject to variation at Our discretion.

Subject to any obligations in respect of consumer guarantees under the Australian Consumer Law, this estimate is not binding upon Us.
- (b) We will endeavour to give You prior notice of any variation to the Installation Date.
- (c) Installation of the System includes:
 - (i) supply and installation of suitable mountings as specified in the Order;
 - (ii) supply and installation of standard System components and electrical cabling;
 - (iii) supply and Commissioning of the System;
 - (iv) where relevant, arranging for connection of the System to the electricity grid;
 - (v) instructions on the basic operation of the System;
 - (vi) supply of a certificate of electrical safety as required by law.
- (d) Installation of the System does not include any work to make the Installation Address Solar Ready or to correct any defect or condition in the electrical wiring (including switchboard) at the Installation Address, unless such work is specified in an Order.
- (e) Nothing in these Terms will oblige Us to carry out or manage Building Work.

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4(b). The deposit shall be applied to the Contract Price unless refunded in accordance with these Terms.

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- (b) You must pay Us the Contract Price (less any deposit paid by You) in full within 7 days of the Commissioning of the System.
- (c) The Contract Price may be subject to adjustment under clauses 10(c), 13(d) and 13(e).
- (d) You are not entitled to retain any money owing to Us notwithstanding any default or alleged default by Us of these Terms, including (but not limited to) the supply of allegedly faulty or defective goods, provision of Services to an inadequate standard or a delay in the provision of goods or services.
- (d) If the TPFI is an STC (or other tradeable certificate or commodity) then the TPFI Discount will be based upon our good faith assessment of the trading value of the STCs (or other tradeable certificate or commodity) as at the day of the Quote;
- (e) If we do not receive a TPFI equal to the TPFI Discount for any reason (except because of changes in the traded price or value of an STC or other tradeable certificate or commodity), the Contract Price is increased by the amount of the TPFI Discount and You must pay is that amount within 14 days of Us notifying You in writing.

However, nothing in this paragraph affects Your rights for any alleged failure of a guarantee under the Australian Consumer Law.

- (e) You must pay Us (without demand) interest at a rate being 3% higher than the cash target rate set by the Reserve Bank on all overdue amounts owed by You to Us.

12. GST

- (a) Unless stated otherwise and subject to this clause, the Contract Price, Additional Charges and any other amount required to be paid or other consideration required to be provided under any provision of this Agreement, is exclusive of GST.
- (b) If GST is payable in relation to a taxable supply made by Us to You under this Agreement then You will pay to Us an additional amount equal to the GST payable on that supply.

13. Third Party Financial Incentives

- (a) This clause 13 shall apply to a supply of Goods or Services by Us to You that may give rise to the right to obtain a TPFI (whether by You, Us or any other person).
- (b) If the Contract Price includes a TPFI Discount, then:
 - (i) we shall be absolutely entitled to all right title, interest and benefit of such TPFI whether by assignment or otherwise;
 - (ii) You will not qualify for any TPFI (including upon the creation of any STC),
 - (iii) You hereby irrevocably authorise Us to apply for obtain and retain such TPFI.
- (c) You shall promptly upon Our request take such steps, including the signing of such documents, as may be necessary to confer the benefit of clause 13(b) upon Us.

Without limitation the generality of the foregoing, such steps may include (but not be limited to):

- (i) assigning or transferring relevant rights benefits or assets to Us; or
- (ii) nominating Us under the relevant TPFI scheme.

14. Credit Providers

- (a) This clause applies if You have arranged finance for the Contract Price through a Credit Provider.
- (b) Any Order placed by You is conditional upon your Credit Provider approving your credit application, paying Us the Deposit and agreeing to pay Us the Contract Price in accordance with these Terms.
- (c) You consent to Us providing your Credit Provider with your details including information relating to this contract and your Personal Information.
- (d) If the Credit Provider does not approve Your application for credit, You may:
 - (i) pay the Deposit and affirm this Contract (including Your obligation to pay the Contract Price), or
 - (ii) cancel this Contract by telling Us in Writing.

15. Credit Assessment

You agree to Us undertaking an assessment of your credit worthiness and You hereby authorise Us to disclose your Personal Information to credit ratings agencies, financial institutions and other relevant persons for that purpose.

16. Title and risk

- (a) Risk in Goods passes to You immediately upon Commissioning of the System.
- (b) Property in Goods does not pass to You until:
 - (i) all money (including money owing in respect of other transactions between Us and You) due and payable by You to Us has been fully paid; and
 - (ii) You have fully complied with Your obligations under clause 13(c).

17. PPSA

- (a) You grant to Us a Security Interest in respect of the Goods and their Proceeds.
- (b) The Security Interest referred to in this clause 17 is a Purchase Money Security Interest.

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- (c) This Agreement constitutes a Security Agreement.
- (d) You agree that until such time as property in the Goods has passed to You:
 - (i) the Goods shall not constitute a fixture to any real property or improvement and notwithstanding that the Goods may be installed on or in any building structure or other improvement; and
 - (ii) You shall hold the Goods as bailee.
- (e) We may perfect Our Security Interest by registering a Financing Statement or Financing Change Statement on the Personal Property Securities Register.
- (f) You must:-
 - (i) provide any information and do anything reasonably required by Us to enable Us to register a Financing Statement or Financing Change Statement in respect of the Purchase Money Security Interest granted under these Terms;
 - (ii) reimburse Us in respect of its costs (including legal costs on a full indemnity basis) in respect of obtaining an order under section 182 of the PPSA;
 - (iii) provide to Us not less than 14 days written notice of any change to its address, trading name, business or any other information set out or required in a Financing Statement.
- (g) You waive Your right to a receive notice of a verification statement under section 157 of the PPSA.
- (h) To the extent permitted by the PPSA, the following provisions of the PPSA shall not apply (and You waive Your rights thereunder):
 - (i) section 95 (to the extent it requires Us to give You notice);
 - (ii) section 121 (4) (enforcement of liquid assets - notice to grantor);
 - (iii) section 130 (notice of disposal), to the extent it requires Us to give You notice;
 - (iv) paragraph 132(3) (d) (contents of statement of account after disposal)
 - (v) sub section 132(4) (statement of account if no disposal);
 - (vi) section 135 (notice of retention);
 - (vii) section 142 (redemption of collateral); and
 - (viii) section 143 (reinstatement of Security agreement).
- (i) Until property in the Goods has passed to You, You must not Encumber the Goods.

18. Performance of the System

- (a) You acknowledge that the performance of the System will be subject to a number of variable factors including available sunlight, shading, ambient temperature, weather patterns, siting factors and manufacturer's tolerances and specifications.
- (b) Any representations We have made to You in relation to the performance of the System constitute estimates only and are subject to variation.

19. Warranties

- (a) We will provide a minimum warranty period of five years on the operation and performance of the whole System including products and workmanship.
- (b) Our Goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

20. Intellectual Property Rights

All Intellectual Property Rights in any works created by Us in connection with the System vest in and remain our unencumbered property.

21. Agency and assignment

- (a) We may at any time appoint or engage an agent or contractor to perform any of Our obligations.
- (b) We have the right to assign and transfer to any person all or any of its title, estate, interest, benefit, rights, duties and obligations arising in, under this Agreement, provided that the assignee agrees to assume any duties and obligations of Us owed to You under these Terms.
- (c) You shall not assign, or purport to assign, any of its obligations or rights under these Terms without Our prior written consent.

22. Termination

- (a) Either Party may terminate this Contract if the other Party commits a material breach of a condition of these Terms and fails to remedy that breach within 21 Business Days of notice.
- (b) We may terminate this Contract if You:
 - (i) commit any act of bankruptcy or become bankrupt;
 - (ii) become of unsound mind or become a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

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- (iii) have severe substance dependence for the purposes of the Severe Substance Dependence Treatment Act 2010 (Victoria).
- (c) If You terminate this Contract under clause 22(a) We will refund any deposit paid by You (without limiting your other rights at law).

23. Refund upon Termination

You will receive a full refund upon request in the following circumstances:

- (a) the final System design is significantly different to that quoted at the point of contract and is not signed off by You; or
- (b) the site-specific full System design and performance estimate is provided as a deliverable of the contract and:
 - (i) this information is not provided before the expiry of any cooling-off period; and
 - (ii) You do not consent to this information upon receiving it; or
- (c) the estimated delivery timeframe for installation completion that was agreed upon at the point of contract is not honoured, for reasons reasonably within Our control, and You do not consent to a revised timeframe; or
- (d) We acting on your behalf to obtain grid connection approval, do not do so prior to installation, and You do not receive approval from the distributor to connect a System; or
- (e) extra chargeable work arises, which was not specified in the initial contract, and the additional costs are not borne by Us and You do not consent to these additional costs.

24. Force majeure

- (a) If circumstances beyond Our control prevent or hinder Our provision of the Goods or Services, We are free from any obligation to provide the Goods or Services while those circumstances continue.
- (b) Circumstances beyond Our control include, but are not limited to, unavailability of materials or components, strikes, lockouts, riots, natural disasters, fire, war, acts of God, Government decrees, proclamations or orders, transport difficulties and failures or malfunctions of computers or other information technology systems.

25. Dispute resolution

- (a) The parties must endeavour to settle any dispute in connection with the contract by mediation. Such mediation is to be conducted by a mediator who is independent of the parties and appointed by agreement of the parties or, failing agreement within 7 days of receiving any party's notice of dispute, by a person appointed by the Chair of Resolution Institute, (ACN 008 651 232, Level 2, 13-15 Bridge Street, Sydney NSW 2000; telephone: 02 9251 3366, email: infoaus@resolution.institute) or the Chair's designated representative.
- (b) The Resolution Institute Mediation Rules shall apply to the mediation.
- (c) It is a condition precedent to the right of either party to commence arbitration or litigation other than for interlocutory relief that it has first offered to submit the dispute to mediation.

26. Your Personal Information

- (a) We may collect hold and disclose your Personal Information (including metering data) for the purposes of:
 - (i) assessing your creditworthiness;
 - (ii) verifying any information You have provided to Us including:
 - (A) your identity;
 - (B) ownership of the Installed Address;
 - (C) electricity consumption and history for the Installed Address and any associated account;
 - (iii) complying with our obligations under these Terms;
 - (iv) otherwise as permitted under Our published privacy policy from time to time-please ask Us for a copy.

27. Small Scale Technology Certificates

- (a) You may be entitled to receive a benefit in the form of STC's as a result of the purchase or installation of the System purchased from Us. We do not warrant that You will necessarily receive that benefit.
- (b) The financial benefit of these STC's supplied to You by Us, or the total price given to You by Us can vary from day to day and is subject to change without notice.
- (c) In the event there is a change in the value of the STC price after the proposal has been provided, We will notify You of the new total amount payable and reissue the proposal with the varied price.

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- (d) We at our discretion can withdraw a proposal at any time due to a change in the value of STC's, supplier pricing and other events that affect pricing beyond Our control.

If you have elected to assign your STC's in respect for the System to Energy Makeovers:

- (i) You will receive a point of sale discount on the price payable by You, which will be detailed on the proposal; and
- (ii) You agree to complete all such prescribed forms and perform all such actions to give effect to the assignment of STC's to Us.
- (e) You authorise Us to apply for STCs or other benefits in Your name and to receive payment of these benefits on Your behalf.
- (f) You agree to sign all documents We may require, and to take any other action We may require, in order to obtain payment of these benefits.
- (g) You acknowledge that, in certain circumstances, the Commonwealth or State Government may require You to repay the STCs or other benefits. We will have no responsibility to You in the event that You are required to repay the STCs or other benefits.
- (h) If You receive STCs as part of the System price included in your customer contract and We are unable to claim Your STC's from the relevant authority on Your behalf (as a result of something You have done), You must repay Us the value of the STC discount within 30 days of receiving notice to do so.

28. Tariff Rates

- (a) Information regarding government assistance schemes, feed-in tariffs and other programs is believed to be correct at the time of consultation and publication, but this information can change without notice.
- (b) We are not responsible for any inaccuracies, or for any losses caused by third parties or changes to government assistance schemes, feed-in tariffs or other programs.
- (c) Your electricity contract/tariff may change following installation of Your System. You should contact Your electricity retailer before signing a contract, to check what new electricity tariff rates may be and also after installation of the System, to confirm that the agreed tariff has been applied.
- (d) Any projections of future financial performance have been prepared in good faith, but are for illustrative purposes only. You are encouraged to seek their Your own financial advice with regard to the potential financial returns associated with Your System.

- (e) If You do not have an appropriate meter at your premise, We will contact your distribution company to arrange for the installation of an appropriate meter. The costs of installing an appropriate meter are to be borne by You and do not form part of the proposal price.

- (f) You acknowledge that there may be delays in Your distribution company installing an appropriate meter, and this may delay Your ability to use the System and receive feed-in tariffs.

29. Other matters

- (a) This Contract shall be deemed to be made in the State of Victoria, Australia and shall be governed by the laws of the State of Victoria.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of the State of Victoria.
- (c) This Contract and any written variations agreed to in writing by Us represent the whole agreement between the parties relating to their subject matter.
- (d) This Contract supersedes all oral and written negotiations and communications by and on behalf of either of the parties.
- (e) If any provision of these Terms at any time is or becomes void, voidable or unenforceable, the remaining provisions will continue to have full force and effect.
- (f) A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- (g) Any requirement to provide a document or information in writing can be met in electronic form, or to provide a signature can be met in electronic or verbal form.
- (h) We will comply with the all requirements of the Clean Energy Council Solar Retailer Code of Conduct. We will provide you with a copy of this code upon request.

30. Definitions

In these Terms:

- (a) **Additional Charges** means any additional charges associated with the Installation Works of which You are advised by Us when we inspect the Installation Address and before we commence the Installation Works;
- (b) **Building Work** means domestic building work within the meaning of the Domestic Building Contracts Act 1995 (Vic).
- (c) **Business Day** means a day that is not a Saturday, Sunday or public holiday in the State of Victoria, Australia.
- (d) **Cancellation Fee** means the cancellation fee specified in the Quote or Order (if any).

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- (e) **Commissioning** of the System means that all parts of the System are installed and the System is capable of producing power.
- (f) **Contract** means this contract comprised of these Terms, Your Order and corresponding Quote;
- (g) **Contract Price** means the dollar amount set out in a Quote and any **Additional Charges**, after an allowance for any **TPFI Discount** (and as may be adjusted under this Contract).
- (h) **Credit Provider** means a person who offers all who has agreed to consider offering you credit to meet your financial obligations under this Contract.
- (i) **Encumbrance** means an interest or power whether legal or equitable and:
 - (i) reserved created or otherwise arising in or over any property and includes a Security Interest, or
 - (ii) any agreement to grant confer or create and interest referred to in (i),and **Encumber** shall have a corresponding meaning.
- (j) **Goods** mean the System and all other goods supplied by Us to You in connection with this Contract.
- (k) **Inspection Fee** means the inspection fee (if any) set out in an Order.
- (l) **Installation Address** means the property specified in an Order where the System will be installed.
- (m) **Installation Date** means the date nominated in an Order for installation of the System at the Installation Address.
- (n) **Installation Works** means installation of the System.
- (o) **Intellectual Property Rights** means intellectual property rights at any time protected by statute or common law, including copyright, trademarks, patents and registered designs.
- (p) **Order** means a purchase order for System signed by You and given to Us in response to a Quote.
- (q) **Personal Information** means personal information under the Privacy Act 1988 (Cth.).
- (r) **PPSA** means Personal Property Securities Act 2009.
- (s) **Quote** means a written description of the System and Our estimated price for supplying and installing the System.
- (t) **STC** means a Small Scale Technology Certificates under the Commonwealth Renewable Energy Target Scheme.
- (u) **Services** include the Installation Works.
- (v) **Solar Ready** means that:
 - (i) the Installation Address meets Our reasonable requirements for installation of the System in accordance with the manufacturer's specifications, relevant electrical safety standards, applicable building standards, applicable Australian Standards and any relevant requirements under a TPFI scheme; and
 - (ii) there is no pre-existing defect or condition in the electrical wiring (including switchboard and all existing electrical fittings and appliances) at the Installed Address which would prevent a certificate of electrical safety being issued upon completion of the Installation Works.
- (w) **We, Our** and **Us** means the entity specified as supplier of the System on the Quote and where the context permits includes Our agents, sub-contractors and permitted assigns.
- (x) **You** and **Your** means the person identified on a Quote or Order as purchaser of the System (and except in relation to the payment obligation, includes persons authorised by You).
- (y) **System** means the solar system specified in an Order (and includes any specified inverter, storage, and energy management system).
- (z) **Third Party Financial Incentive ("TPFI")** includes any grant, financial incentive, cash payment, rebate or financial benefit provided or available from a third party (including any Government or governmental agency) in relation to the System and includes a STC.
- (aa) **TPFI Discount** means a discount that we allow to the Contract Price in connection with an estimated TPFI as stated in a Quote

31. Interpretation

- (a) In these Terms, unless the context otherwise requires:
 - (i) a reference to writing includes email and other communication established through Our website (if any);
 - (ii) the singular includes the plural and vice versa;
 - (iii) a reference to a clause or paragraph is a reference to a clause or paragraph of these Terms;
 - (iv) a reference to a party to these Terms or any other document or arrangement includes that party's executors, administrators, successors and permitted assigns;
 - (v) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;

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- (vi) expressions defined in the PPSA have the same meaning when used in these Terms;
- (vii) a reference to "\$" or dollars means Australian dollars and a reference to price or payment means the price or payment in Australian dollars;
- (viii) headings are for ease of reference only and do not affect the meaning or interpretation of these Terms; and
- (ix) if the date on which any act, matter or thing is to be done falls on a day which is not a Business Day, that act, matter or thing:
- (x) if it involves a payment other than a payment which is due on demand must be done on the preceding Business Day; and
- (xi) in all other cases, must be done on the next Business Day.