

# *Any Energy Pty Ltd*

## *Terms & Conditions*

### **1. Definitions**

1.1 The following words have the following meaning:

- (a) "Buyer" means the buyer (or any person acting on behalf of and with the authority of the Buyer)
- (b) "Seller" means Any Energy Pty Ltd and any of its related entities.
- (c) "Authorised Persons" means any representative, associate, officer, employee, agent or subcontractor of Any Energy Pty Ltd
- (d) "Goods" means any or all of the products supplied by Any Energy Pty Ltd.
- (e) "Services" means any or all of the installation services conducted by Any Energy Pty Ltd
- (f) "Price" means the price payable for the goods and/or services as set out in the Quote

### **2. Offer, Acceptance & Cancellations**

2.1 If the Buyer accepts the quote and completes the 'Acceptance of Quote' form it is considered a binding agreement.

2.2 If the Buyer has not completed and returned the 'Acceptance of Quote' form within thirty (30) days of the date of this quote, this quote will expire and will be null and void.

2.2 The Buyer may cancel their order without penalty, as long as the cancellation is in writing by the Buyer and is not within 7 days of their expected installation date. If a cancellation occurs within 7 days of the installation date which had been confirmed by the Buyer, a fee may be incurred of \$250 inc GST.

### **3. Electricity Meter Changeovers, Switchboard Upgrades and Electrical Inspections**

3.1 The Buyer acknowledges and agrees that the electricity meter changeovers and switchboard upgrades associated with the Goods and Services do not form part of the Agreement and that these services will not be performed by the Seller and that you will be billed separately for these services by the third parties who perform these services.

3.2 The Buyer further acknowledges and agrees that an electrical inspection in relation to the installation of the Goods at the Buyers premises may be required prior to the Goods becoming operational and that the Buyer may be responsible for the cost of that inspection.

3.3 The Buyers obligation to make a payment under clause 5 is not affected by any delay by a third party in performing any electricity meter changeover, switchboard upgrade or electrical inspection.

### **4. Government Rebates**

4.1 The Buyer may be entitled to receive a grant, rebate or other benefit from the Commonwealth or State Government as a result of the purchase or installation of Goods and it is the Buyers responsibility to seek eligibility through the appropriate bodies.

4.2 If the Price incorporates a point of sale discount on the basis that the Seller will receive payment of the grant, rebate or other benefit, the Buyer authorises the Seller to apply for that grant, rebate or other benefit in the Buyers name and to receive payment of that grant, rebate or benefit on the Buyers behalf. The Buyer agrees to sign such relevant documents as the Seller may reasonably require, and to take whatever other action the Seller may reasonably require in order for the Seller to obtain payment of that grant, rebate or other benefit.

4.3 The Buyer acknowledges that the Commonwealth or State Governments may, at any time, make legislative changes which may affect the Buyers eligibility of or their entitlement to any incentives, subsidies, grants, rebates or other benefits. The Seller may inform the Buyer of any changes, however the Seller is not responsible for the Buyer and assessing the Buyers eligibility. No compensation will be paid to the Buyer for not meeting the eligibility requirements.

4.4 The RECs are only able to be claimed by the Seller if the installation is complete and functioning. If the system is not complete within a reasonable timeframe (time being of the essence), the Seller is entitled to invoice the Buyer for the value of the RECs and the Buyer is then responsible to claim the RECs themselves, if the buyer has delayed the installation.

## 5. Payment

5.1 At the Seller's sole discretion the Price shall be either:

- a) As indicated on invoices provided by the Seller to the Buyer in respect of Goods and Services supplied; or
- b) The Seller's quoted Price which shall be binding upon the Seller provided that the Buyer shall accept the Seller's quotation in writing within thirty (30) days.
- c) GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

5.2 The Seller reserves the right to change the Price in the event of a variation to the Seller's quotation. At the Seller's sole discretion a deposit may be required.

5.3 The Seller is not liable to pay any extra charges to make the Buyers home safe to install upon, in the event that the Buyers home needs extra equipment for the solar installers to safely install their equipment, the Buyer must arrange scaffolding or a cherry picker to ensure the safety of the Sellers employees at the Buyers home.

5.4 Payment is due in full on the day of installation. Payment must be made by cheque, EFT, BPAY, direct deposit or MasterCard/Visa (2% surcharge applicable). Payments for orders accepted in Australia shall be made in Australian Dollars.

5.5 Any cost incurred for debt recovery will be passed on in full to the Buyer.

5.6 In the event that credit terms are offered, the Buyer authorises the Seller to:

- a) Obtain from a credit reporting agency a credit report containing personal information about the Buyer and its Guarantors pursuant to Section 18K(1)(b) of the Privacy Act;
- b) Obtain a report from a credit reporting agency and other information in relation to the Buyer's commercial credit activities. The Buyer understands the information can be used for the purposes of assessing creditworthiness.

## 6. Risk & Ownership of Goods

6.1 Risk of loss or damage to the Goods passes onto the Buyer on delivery, which will occur once the Goods have been installed by the Seller at the Buyers premise.

6.2 Ownership of, and title to, the Goods passes to the Buyer only upon payment in full by the Buyer of the Price and any other amounts due by the Buyer to the Seller.

6.3 Until payment of the Price in full:

- a) The Seller retains full legal title to the Goods
- b) The Seller may call for, and recover possession of, the Goods at any time
- c) If the Buyer does not comply with a request from the Seller to remove (if installed) and deliver the Goods to the Seller, then the Seller may remove and recover the Goods as a licensee and without liability from trespass, using whatever force may reasonably be necessary.

## 7. Right of Entry

7.1 Any Energy Pty Ltd may use any Authorised Person to provide the Goods and Services.

7.2 The Buyer grants to each Authorised Person a licence to enter the Premises for the purposes of:

- a) Installing the Goods
- b) Inspecting the Goods
- c) Conducting repairs or maintenance to the Goods
- d) Removing the Goods and any equipment; and
- e) Any other activities ancillary to, or necessary to facilitate, the above activities.

## 8. Insolvency

If the Buyer becomes or takes any steps to be declared insolvent or bankrupt, or have a receiver, administrator, liquidator, trustee or similar official appointed then:

- a) The Buyer must notify Any Energy Pty Ltd immediately
- b) All amounts outstanding by the Buyer to the Seller immediately become due and payable; and
- c) If the Seller incurs debts for collecting money owed by the Buyer, the Buyer will be charged for these recovery costs

## 9. Warranties

9.1 Goods under warranty (subject to clause 10):

- a) Goods manufactured by the Seller are subject to the warranties which are set out in the Quote or documentation provided at the time of installation.
- b) Goods manufactured by parties other than the Seller are subject to the manufacturers warranties which are set out in the Quote or documentation provided at the time of installation.
- c) In relation to Goods manufactured by parties other than the Seller, the Seller reserves the right to refer warranty claims directly to the manufacturer if outside the scope of reasonable service or installation work. The Seller shall not be bound by nor be responsible for any term, condition, representation or warranty given by the manufacturer of the Goods.
- d) Notifications of defects must be made in writing to the Seller within the specified warranty period.
- e) The Seller has a 'back to base' warranty for parts that will be assessed and repaired or replaced within reasonable time frame
- f) The Seller will arrange freight transport for Goods back to the Sellers site for testing by manufacturer; however the Buyer may need to contract an electrician to remove any parts and shut down the system safely. Once system components have been evaluated and a report drawn, the Seller will inform the Buyer on the solution.

9.2 Services under warranty (subject to clause 10):

- a) Where the Seller provides Services, the Seller warrants that if there is a defect in the works and such defect is due to the Seller's defective workmanship which is reported to the Seller within twelve (12) months of the date of delivery (time being of the essence) then the Seller will either (at the Seller's sole discretion) replace or remedy the workmanship.
- b) Services undertaken by the Seller come with a 12 month onsite warranty (labour and service call). If outside of the 12 month warranty the Buyer will be charged a service call fee and possibly a travel fee.
- c) The Seller provides an unlimited phone warranty service to answer any of the Buyers installation and system queries.

### 9.3 Warranty denial

In the event the Buyers warranty claim is denied, the Buyer will be invoiced for any costs involved in assessing the Buyers claim. In addition to clause 10 the Buyers warranty may be denied for the following reasons:

- a) The warranty period has expired
- b) The Goods prove to be working normally under testing
- c) The Goods have been tampered with and seals have been broken
- d) Improper transportation and delivery
- e) Application beyond the scope of safety standards (AS4777&AS3100 etc)

### 9.3 Ownership of warranties

All warranties are applicable to the original purchaser only and are not transferable unless otherwise stated in the Agreement.

## 10. Exclusions & Limitations of Liability

10.1 The warranties set out in clause 9 will no longer be valid if:

- a) Anyone other than an Any Energy Pty Ltd, contractor or other Any Energy Pty Ltd Authorised Person works on (including repairing, altering or upgrading) the Goods at any time
- b) The Buyer fails to properly maintain the Goods
- c) The Buyer fails to follow any instructions or guidelines provided by the Seller
- d) The Goods are used for any other application than those specified in the quote or order form
- e) The continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user

10.2 The warranties set out in clause 9 do not cover:

- a) Repaired breaks or any joins to sensor wire or any damage caused to sensor wire;
- b) Your existing electrical installation, wiring or fuse box
- c) Normal fair wear and tear
- d) Any malicious damage or abuse
- e) Damage caused by vermin, animals or pests
- f) Corrosion, oxidization, discolouration by mould or the like
- g) Damage caused by 'acts of God', improper voltage or power surges, accidents or other acts (lightning, water damage etc) beyond the Sellers reasonable control
- h) The inverter being tampered with and opened
- i) Damage created by spills, liquid, dust, incorrect storage near inverter preventing appropriate ventilation
- j) Repairs and replacement outside manufacturers time

## 11. Termination

11.1 Where the Buyer:

- a) Makes default in any payment or breaches any of these terms; or
- b) Becomes unable to pay its debts as and when they fall due; or
- c) Commits an act of bankruptcy or, being a company, enters into liquidation or provisional liquidation whether compulsory or voluntary or compounds with its creditors generally or has a receiver or receiver manager or administrator appointed over all or part of its assets or passes a resolution for winding-up or a petition is presented for its winding-up.

11.2 The Seller may without prejudice to any of its rights or remedies by notice to the Buyer:

- a) Suspend further supply and require payment in advance for future supply;
- b) Recover possession of any Goods for which payment has not been made;
- c) Terminate all or any purchase orders for Goods or Services which have been accepted by the Seller;
- d) Claim immediate payment of all moneys due by the Buyer in respect of all Goods and Services which will be deemed immediately due and payable.

## 12. Intellectual Property

12.1 You acknowledge and agree that you do not own (and that any agreement between us in relation to the Goods and Services does not transfer ownership of) any intellectual property rights (including, without limitation, copyright, trademarks, registered designs, patents and know how) in or in conjunction with or relating to the Goods and Services

12.2 You must not alter, remove or in way tamper with any of the intellectual property rights of Any Energy Pty Ltd.

## 13. General

13.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

13.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland and are subject to the jurisdiction of the courts of Queensland.

13.3 The Buyer shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Buyer by the Seller.

13.4 The Seller reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which the Seller notifies the Buyer of such change