

## SOLAR JUICE SUPPLY AGREEMENT TERMS AND CONDITIONS

1. This supply agreement governs and is incorporated into any Purchase Order and any Invoice issued during the term of this document, regardless of any terms and conditions that may accompany a Purchase Order or an Invoice.

2. The terms of this document commence on the date the Customer issues Solar Juice with its first Purchase Order and applies to each subsequent Purchase Order issued by the Customer to Solar Juice, unless expressly terminated by Solar Juice with written notice to the Customer.

3. Defined terms in this document:

<b>Business Day</b>	means a day that is not a Saturday, Sunday or public holiday in Sydney, New South Wales.
<b>Collateral</b>	means all Goods, including any equipment and/or other tangible property (including any accessions to these Goods, equipment or property) sold, leased, hired, rented, bailed, supplied on consignment, sold subject to a conditional sale agreement (including retention of title) or otherwise made available by Solar Juice to the Customer, including but not limited to solar PV panels, solar inverter, mounting systems and accessories.
<b>Commercial Credit Account</b>	means any commercial credit account between the Customer and Solar Juice established pursuant to a Commercial Credit Agreement.
<b>Commercial Credit Agreement</b>	means the agreement titled 'Application for Commercial Credit' between Solar Juice and the Customer incorporating the <i>Commercial Credit Terms and Conditions</i> as amended, varied and updated from time to time and the current version of which can be found at <a href="http://www.solarjuice.com.au/terms">www.solarjuice.com.au/terms</a> .
<b>Conditions</b>	means the terms and conditions of the sale and supply of Goods contained in this document, as varied or amended from time to time.
<b>Consequential Loss</b>	means indirect, economic, special or consequential loss or damage, loss of revenue, time, goodwill, data, anticipated savings, opportunity, loss of production and loss of profit.
<b>Consumer Law</b>	means the <i>Competition and Consumer Act 2010</i> (Cth) and any other State or Federal legislation in force relating to consumer agreements.
<b>Customer</b>	means the person or the 'Customer' (as defined in the Commercial Credit Agreement) placing a Purchase Order with Solar Juice, whether directly or via an agent, authorised representative, or any other person held out by the customer as having the authority to bind the customer to the Conditions.
<b>Delivery Address</b>	means the address nominated by the Customer in a Purchase Order for the delivery of the Goods.
<b>Delivery Date</b>	means the date upon which the Goods are delivered to the Customer (or made available to the customer for pickup), pursuant to the Purchase Order.
<b>Delivery Fee</b>	means the costs incurred in delivering the Goods to the Customer.
<b>Goods</b>	means any equipment, materials and other items provided to the Customer by Solar Juice on the terms of this document including, but not limited to, solar panels, solar PV panels, solar inverters, mounting systems and accessories.
<b>GST Act</b>	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).

<b>Intellectual Property Rights</b>	means all intellectual or industrial property rights throughout the world (whether registered or not) including all business names, copyrights, patents, trademarks, service marks, trade names, designed, confidential information, trade secrets and know how.
<b>Invoice</b>	means each document titled 'Invoice' issued by Solar Juice to the Customer in connection with each Purchase Order.
<b>Manufacturer</b>	means any third party entity which manufactures Goods, which are supplied by Solar Juice to the Customer, from time to time.
<b>Manufacturer's Warranty</b>	means any warranty or extended warranty provided by a Manufacturer in respect of any Goods produced by that Manufacturer.
<b>Order Date</b>	means the date on which a Purchase Order is made by the Customer.
<b>Personnel</b>	means any officer, employee, agent or sub-contractor of a party.
<b>Possession</b>	has the meaning given to that term in the PPSA.
<b>PPSA</b>	means the <i>Personal Property Securities Act 2009</i> (Cth).
<b>Progressive or Periodic Supply</b>	means a 'Taxable Supply' (as that term is defined in the GST Act) that satisfies the requirements of section 156-5 GST Act.
<b>Purchase Order</b>	means any written request for the supply of Goods (i.e. including, but not limited to, a request made under a sales order) made in accordance with clause 5, the form of which can be downloaded at <a href="http://www.solarjuice.com.au/terms">www.solarjuice.com.au/terms</a>
<b>Purchase Price</b>	means the price payable by the Customer to Solar Juice for Goods, as notified to the Customer by Solar Juice from time to time.
<b>Return Authorisation Form</b>	means the document titled 'Return Authorisation Form' as amended from time to time, the form of which can be found at <a href="http://www.solarjuice.com.au/terms">www.solarjuice.com.au/terms</a> .
<b>Return Policy</b>	means the policy that Solar Juice has in place in relation to the return of the Goods as published in the Return Authorisation Form which can be found at <a href="http://www.solarjuice.com/terms">www.solarjuice.com/terms</a> .
<b>Security Interest</b>	has the meaning given to that term in the PPSA.
<b>Solar Juice</b>	means Solar Juice Pty Ltd ACN 139 534 026 and its related bodies corporate (as that term is defined in the <i>Corporations Act 2001</i> (Cth)).

#### 4. Interpretation

In this document, unless contrary to or inconsistent with the context:

- (a) words importing the singular include the plural and vice versa;
- (b) clause and subclause headings are for reference purposes only;
- (c) words denoting any gender include all genders;
- (d) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (e) a reference to a document or agreement (including a reference to these Conditions) is to that document or agreement as amended, supplemented, varied or replaced from time to time;
- (f) a reference to these Conditions includes the agreement recorded by these Conditions;
- (g) a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (h) a reference to a person includes an individual, the estate of an individual, a corporation, trust, partnership, unincorporated body, government and local authority or agency, whether or not it comprises a separate legal entity;
- (i) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally; and

- (j) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and severally.

#### 5. Purchase Orders

- (a) The Customer must submit each Purchase Order in writing to Solar Juice.
- (b) The Purchase Order must specify:
  - (i) the Goods to be purchased;
  - (ii) the requested Delivery Date;
  - (iii) the Purchase Price of the Goods;
  - (iv) a Delivery Address for the Goods; and
  - (v) the Customer's contact details.
- (c) The Customer acknowledges that, where the Delivery Date requested for Goods is more than 30 calendar days from the Order Date, the price of the Goods may be subject to change, for reasons such as the Manufacturer increasing its pricing of Goods and increases in delivery costs of the Goods, in which case Solar Juice may pass on any increased costs of any Goods to the Customer and, if it does, Solar Juice will provide prior notice and reason to the Customer of the increased Purchase Price in respect of the Goods prior to the relevant Delivery Date. The Customer agrees to pay the increased Purchase Price of the Goods.
- (d) Any Purchase Order placed by the Customer:
  - (i) is an offer to purchase the Goods from Solar Juice on these Conditions;
  - (ii) is subject to Solar Juice's review;
  - (iii) is not binding on Solar Juice until the earlier of the following:
    - (A) Solar Juice has provided the Customer with a written acknowledgement and acceptance of the Purchase Order;
    - (B) Solar Juice takes steps to procure the Goods for the Customer;
    - (C) Solar Juice delivers the Goods to the Customer, its servants, agents or carrier; or
    - (D) the Customer has paid for the Goods, whether in whole or in part.
- (e) The Purchase Order cannot be cancelled, altered or otherwise amended by the Customer after it has been accepted by Solar Juice other than with the written consent of Solar Juice.
- (f) Solar Juice may unilaterally cancel any Purchase Order prior to receiving payment for the Goods in accordance with clause 7(a). Once payment has been made, any cancellation, alteration or amendment to the Purchase Order must be done by written agreement between the parties.
- (g) Upon acceptance of the Purchase Order, Solar Juice must:
  - (i) supply the Goods ordered by the Customer in accordance with the Conditions; and
  - (ii) deliver the Goods to the Customer in accordance with clause 8.

#### 6. Pricing

- (a) Subject to acceptance of a Purchase Order in accordance with clause 5, Solar Juice will provide, and the Customer agrees to acquire, the Goods for the Purchase Price as notified by Solar Juice to the Customer from time to time.
- (b) Unless otherwise provided for, the Purchase Price for the Goods is:
  - (i) expressed in Australian dollars, unless another currency is agreed between the parties;
  - (ii) exclusive of GST and any other taxes, levies or charges imposed on the Goods; and
  - (iii) exclusive of any Delivery Fees, insurance, handling or other expenses in respect of the Goods.
- (c) To the extent that any of the additional charges in clauses 6(b)(ii) and 6(b)(iii) apply to the Goods, these charges must be paid by the Customer in accordance with clause 7.

#### 7. Payment

- (a) The Customer must make payment as follows:

- (i) if the Customer has a Commercial Credit Account, in accordance with its obligations in respect of that Commercial Credit Account; or
    - (ii) if the Customer does not have a Commercial Credit Account, within 7 days of Solar Juice notifying the Customer that the Purchase Order is accepted, and in any event, prior to the delivery of the Goods.
  - (b) The Customer acknowledges that all payments via credit card will incur a surcharge of 1.5% for VISA/MasterCard and 2.5% for American Express, which the Customer agrees to pay at the same time as payment of the Goods is processed by Solar Juice
8. Delivery
- (a) Solar Juice will use its reasonable efforts to deliver the Goods to the Customer at the Customer's Delivery Address.
  - (b) If Solar Juice cannot deliver the Goods to the Customer's Delivery Address for any reason outside of the control of Solar Juice, the Customer will be liable for any additional Delivery Fees or storage fees incurred by Solar Juice in attempting to deliver the Goods.
  - (c) If Solar Juice becomes aware that delivery of the Goods may be delayed, then Solar Juice will use reasonable efforts to ensure that the Customer is notified of the delay and the estimated duration of the delay.
  - (d) If the Customer does not accept delivery of the Goods after three (3) attempts by Solar Juice to deliver the Goods, then Solar Juice may elect to terminate the relevant Purchase Order and seek recovery of all costs, losses, expenses or damages that Solar Juice incurs as a result of the Customer's failure to accept delivery of the Goods, and all such costs, losses, expenses or damages are deemed a debt due by the Customer to Solar Juice.
  - (e) The Customer acknowledges that:
    - (i) Solar Juice may make delivery of the Goods in instalments;
    - (ii) Solar Juice does not warrant that the Goods will be delivered on any proposed delivery date;
    - (iii) Solar Juice will not be liable for any loss or damage, however caused, caused by:
      - (A) the late delivery of the Goods; or
      - (B) any damage to the Goods during delivery; and
    - (iv) late delivery of the Goods will not constitute a material breach of these Conditions and will not entitle the Customer to terminate a Purchase Order or these Conditions.
  - (f) The Customer must notify Solar Juice in writing of any errors or shortfall in a delivery of Goods within three (3) Business Days of the Delivery Date. If it does not, the parties agree that the delivery will be deemed to have contained the Goods set out in the relevant Purchase Order.
  - (g) Should the Customer elect to pick up the Goods, the Customer must, within 5 Business Days of being notified of their availability, collect the Goods. Solar Juice reserves the right to charge the Customer storage on Goods not collected within 5 Business Days of notification of their availability at the rate of \$35.00 per week per pallet or part thereof.
  - (h) If the Customer fails to collect the Goods within 14 days of being notified of their availability, Solar Juice may terminate the relevant Purchase Order, keep the deposit and resell the Goods and reserves the right to charge a restocking fee of 5% of the Purchase Price.
9. Risk and title
- (a) Title to the Goods will pass to the Customer upon full payment to Solar Juice of the Purchase Price and any other monies owing by the Customer to Solar Juice.
  - (b) Risk in the Goods will pass to the Customer upon the earlier of:

- (i) full payment to Solar Juice of the Purchase Price and any other monies owing by the Customer to Solar Juice; or
    - (ii) the Goods leaving Solar Juice's warehouse for the purposes of delivery to the Customer, or the Goods being collected by the Customer from Solar Juice's warehouse.
  - (c) Notwithstanding paragraph (a) and (b) above, in the event that the Customer has a Commercial Credit Account with Solar Juice, the relevant 'retention of title clauses' in the Commercial Credit Agreement (clauses 13-24) will prevail to the extent of any inconsistency with the provisions of this document.
10. Security interest
- (a) The Customer grants a Security Interest in the Collateral as security for the payment of all amounts owing to Solar Juice and the performance of all obligations under these Conditions.
  - (b) The Customer authorises Solar Juice to file or register any financing statements or other documents, and otherwise to do all things necessary to perfect and continue the Security Interest, to protect and preserve the Collateral, and to realise the Security Interest held by Solar Juice.
  - (c) The Security Interest granted pursuant to this clause shall become immediately enforceable upon a breach of these Conditions by the Customer, in which case Solar Juice may:
    - (i) take possession of and sell or lease the Goods (either by public auction, private treaty or otherwise and either in full or in part, and otherwise subject to any conditions that Solar Juice considers appropriate); and
    - (ii) appoint and remove any one or more persons to be a receiver of the whole or any part of the Goods, the income and proceeds of the Goods (or both) and to pay such receiver the remuneration as Solar Juice considers appropriate.
  - (d) For the avoidance of doubt, nothing in this clause 10 limits or modifies any of Solar Juice's rights in respect of the Collateral as contained in the Commercial Credit Agreement.
  - (e) To the extent permitted by law:
    - (i) for the purposes of sections 115(1) and 115(7) of the PPSA:
      - (A) Solar Juice need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) or 135;
      - (B) sections 142 and 143 are excluded; and
    - for the purposes of section 115(7) of the PPSA, Solar Juice need not comply with sections 132 or 137(3).
11. Return of Goods
- (a) The return of non-defective Goods is governed by the Return Policy, as amended from time to time. Solar Juice will not accept the Customer's return of the Goods or provide any refund for those Goods unless the Customer:
    - (i) complies with the terms of the Return Policy; and
    - (ii) has submitted a Return Authorisation Form to Solar Juice for its consideration.
  - (b) Following a review by Solar Juice, Solar Juice may approve the Customer's Return Authorisation Form and, if so, Solar Juice will provide written confirmation to the Customer of such approval and an authorised return number.
  - (c) Any returns of Goods to Solar Juice must be accompanied by an authorised return number. If not, such returns will be rejected and the Customer will be liable for the return shipping costs. Solar Juice is under no obligation to accept the return of non-defective Goods, and may reject the returned Goods in its absolute discretion.

## 12. Limitation of liability

- (a) The Customer acknowledges and agrees that Solar Juice will not be liable under or in connection with these Conditions for any failure to perform its obligations under these Conditions that is caused or contributed to by circumstances beyond the reasonable control of Solar Juice.
- (b) To the full extent permitted by law, any warranty or condition implied under law in relation to the Goods is excluded.
- (c) Where a warranty cannot be legally excluded, including for the purposes of the statutory guarantees under the Consumer Law which cannot be contracted out of, Solar Juice's liability is limited, at Solar Juice's option, to:
  - (i) the replacement of the Goods or the supply of equivalent Goods;
  - (ii) the repair of the Goods;
  - (iii) the payment of the cost of having the Goods replaced; or
  - (iv) the payment of the cost of having the Goods repaired.
- (d) To the extent permitted by the Consumer Law, Solar Juice excludes all other liability whatsoever to the Customer arising out of or in any way connected with these Conditions, including any liability for Consequential Loss of any kind howsoever arising and whether caused by breach of statute, breach of contract, negligence, other tort or other cause of action.
- (e) For clarity, Solar Juice specifically excludes all liability whatsoever arising from or connected with:
  - (i) the improper or incomplete installation of the Goods;
  - (ii) the Customer's failure to properly maintain the Goods;
  - (iii) any modifications to the Goods;
  - (iv) the fair wear and tear of the Goods or deterioration of the Goods due to normal use and exposure;
  - (v) damage to the Goods arising from environmental conditions;
  - (vi) the misuse or abuse of the Goods; or
  - (vii) damage to the Goods arising from an accident.
- (f) Notwithstanding this clause 12, Solar Juice will, to the extent reasonably possible, extend to the Customer the benefit of any Manufacturer's Warranty.
- (g) Where a Customer seeks the benefit of any Manufacturer's Warranty from Solar Juice, the Customer's rights in relation to any claims or warranties will be limited to the terms of that Manufacturer's Warranty, as determined by the relevant Manufacturer in its absolute discretion, and the Customer acknowledges that Solar Juice's liability is limited in accordance with this clause 12.

## 13. Set-off

- (a) Solar Juice may set-off against or deduct from any amount due to the Customer any amount that is payable, or would be payable, by Solar Juice to the Customer.
- (b) Unless agreed to by Solar Juice in writing, the Customer must make all payments required under this document to Solar Juice in full, free of any set-off, counterclaim and without deduction and withholding.

## 14. Variations

- (a) These Conditions may be amended by Solar Juice from time to time, and the most recent version of these Conditions published at <http://www.solarjuice.com.au/terms> will apply to all Purchase Orders received by Solar Juice after the date of publication.
- (b) Once a Purchase Order has been accepted by Solar Juice, the Purchase Order and the Conditions applying to it may only be varied by the written agreement of the parties, except in relation to future price changes as stated in clause 5(c)

## 15. GST

- (a) Any terms capitalised in this clause and not defined in clause 3 have the same meaning given to those terms in the GST Act.
- (b) Except under this clause, the consideration for a Supply made under or in connection with these Conditions does not include GST.
- (c) If a supply made under or in connection with this document is a Taxable Supply, then at or before any part of the consideration for the Supply is payable:
  - (i) the Recipient must pay the Supplier an amount equal to the total GST for the Supply, in addition to and in the same manner as the consideration otherwise payable under this document for that Supply; and
  - (ii) the Supplier must give the Recipient a Tax Invoice for the Supply.
- (d) For clarity, the GST payable under clause 15(c) is correspondingly increased or decreased by any subsequent adjustment to the amount of GST for the Supply for which the Supplier is liable, however caused.
- (e) If either party has the right under this document to be reimbursed or indemnified by another party for a cost incurred in connection with this document, that reimbursement or indemnity excludes any GST component of that cost for which an Input Tax Credit may be claimed by the party being reimbursed or indemnified, or by its Representative Member, Joint Venture Operator or other similar person entitled to the Input Tax Credit (if any).
- (f) Where a Tax Invoice is given by the Supplier, the Supplier warrants that the Supply to which the Tax Invoice relates is a Taxable Supply and that it will remit the GST (as stated on the Tax Invoice) to the Australian Taxation Office.
- (g) Where a Supply made under or in connection with this document is a Progressive or Periodic Supply, clause 15(c) applies to each component of the Progressive or Periodic Supply as if it were a separate Supply.

## 16. Indemnity

- (a) The Customer indemnifies and must keep indemnified Solar Juice and Solar Juice's Personnel, from and against all liability, damage, charges, claims, demands, writs, suits, proceedings, judgements, orders, decrees, costs, losses and expenses of any nature whatsoever (including Consequential Loss) which Solar Juice or any of Solar Juice's Personnel may suffer or incur arising from or in connection with:
  - (i) any breach by the Customer of any of the provisions of these Conditions;
  - (ii) the Customer's use, possession, ownership or resale of the Goods to any third party, and that third party's use, possession, ownership of the Goods;
  - (iii) any interest in or right over, or any alleged interest in or right over, (whether by encumbrance, lien, charge, mortgage or any other interest (including a security interest) or right recognised by the law of any relevant jurisdiction) any Goods that Solar Juice attempts to supply under this document; or
  - (iv) any criminal or fraudulent act or omission, or wilful misconduct, of the Customer, except to the extent that the liability, loss, damage, cost, charge or expense is caused by the fraud or unlawful act of Solar Juice or Solar Juice's Personnel.
- (b) The parties acknowledge and agree that this indemnity will continue after termination of these Conditions.

## 17. Warranties

- (a) Each party warrants to the other party that:
  - (i) it has full authority and all necessary consents to enter into and perform its obligations under these Conditions and any Purchase Order; and

- (ii) these Conditions and any Purchase Order will constitute binding obligations of it in accordance with their respective terms.
- (b) The Customer warrants to Solar Juice that it understands that:
  - (i) Solar Juice may alter the specification of the Goods at any time without notice to the Customer, provided that the modification does not materially alter the performance of the Goods;
  - (ii) Solar Juice's representation of any performance figures in respect of the Goods is an estimate only, and such performance is not guaranteed;
  - (iii) the incorrect installation and service of the Goods may cause loss of life, injury to persons and/or damage to property;
  - (iv) the installation and service of the Goods must be undertaken by a suitably qualified electrician or renewable energy installer conversant;
  - (v) all workmanship in respect of the installation and service of the Goods is the Customer's responsibility;
  - (vi) it has had the opportunity to seek independent legal advice on these Conditions and their effect;
  - (vii) it has entered into these Conditions and any Purchase Order out of their own free will; and
  - (viii) it has not relied on any representation, whether express or implied, in entering into these Conditions or any Purchase Order.
- (c) The Customer acknowledges that Solar Juice is supplying Goods which may have been manufactured by third parties, and Solar Juice's liability is limited in accordance with clause 12. The Customer shall be entitled to the benefit of any Manufacturer's Warranty in respect of such Goods. All warranty claims shall be directed to the relevant Manufacturer, contact details available from Solar Juice if required.

18. Intellectual property

The Customer acknowledges that it will not obtain any Intellectual Property Rights in connection with the Goods, and any Intellectual Property Rights remain the property of Solar Juice or the relevant Manufacturers.

19. Entire agreement

- (a) This document and the Commercial Credit Agreement (if any) constitute the entire agreement between the parties relating in any way to its subject matter, and, to the extent of any inconsistency, the terms of the Commercial Credit Agreement (if any) will prevail.
- (b) To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this document or the Commercial Credit Agreement (if any).
- (c) Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this document.

20. Notice

- (a) A notice, consent or communication under this document is only effective if it is:
  - (i) in writing in English, signed by or on behalf of the person giving it;
  - (ii) addressed to the person to whom it is to be given; and
  - (iii) given as follows:
    - (A) delivered by hand to that person's address;
    - (B) sent to that person's address by prepaid mail or by prepaid airmail, if the address is overseas; or
    - (C) sent by email to that person's email address.
- (b) A person's address and email address are those set out in the Purchase Order or confirmation of acceptance of a Purchase Order, or as the person otherwise notifies the sender.

21. Compliance with law
- (a) The Customer must comply with all applicable laws and regulations and the requirements of any competent authority in respect of the Customer's use or dealings with the Goods.
  - (b) Solar Juice is not liable for the Customer's compliance with clause 21(a).
22. Costs
- The Customer agrees to indemnify Solar Juice on a full indemnity basis for all costs relating to any recovery of payment in relation to the supply of Goods to the Customer incurred by Solar Juice.
23. Interest payable on overdue debt
- The Customer must pay interest on all debts relating to a recovery of payment in relation to any supply of Goods to the Customer, which will accrue from the date that the payment becomes outstanding. In respect of any overdue debt, Solar Juice will be entitled to charge, and the Customer agrees to pay, interest on any debts at a fixed rate of 15 percent per annum.
24. Assignment
- The Customer must not subcontract, assign, sublicense, transfer, charge or in any manner deal with or purport to subcontract, assign, sublicense, transfer, charge or deal with any part of these Conditions or its rights under these Conditions or any Purchase Order without the prior written approval of Solar Juice.
25. Governing law
- (a) The Customer acknowledges and agrees that this document will be governed by the laws of New South Wales and the laws of the Commonwealth of Australia which are in force in New South Wales.
  - (b) Each party irrevocably submits to the non-exclusive jurisdiction of the New South Wales courts and courts competent to hear appeals from those courts.
26. General
- (a) A clause or part of a clause of these Conditions that is illegal or unenforceable may be severed from these Conditions and the remaining clauses or parts of the clause of these Conditions continue in force.
  - (b) If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from these Conditions in the relevant jurisdiction, but the rest of these Conditions will not be affected.
  - (c) If any party to these Conditions consists of more than one person:
    - (i) an obligation of those persons is joint and those persons' liability is joint and several; and
    - (ii) a right of those persons is held by each of them severally.
  - (d) The rights, duties and remedies granted or imposed under the provisions of these Conditions operate to the extent not excluded by law.