

## Tindo Operations Co Pty Ltd TERMS AND CONDITIONS

### Payment terms

- The terms of payment are strictly Cash on Delivery (COD) or such other period as nominated by the supplier herein from the date of invoice. Tindo Operations Co Pty Ltd ABN 97 617 291 924 and their related bodies corporate (as that term is defined in the *Corporations Act 2001*) (**Supplier**) may, at any time, unilaterally vary the terms of trade in its absolute and unfettered discretion.

### Pricing

- All transactions are quoted and processed in Australian Dollars (AUD).

### GST

- All prices shown include Australian GST unless otherwise indicated.

### Validity

- All prices are subject to change without notice. The Supplier reserves the right to at any time make reasonable adjustments and changes to the prices without notice. For the avoidance of doubt, the quotation price is valid for seven days from the date of the quotation. Once a quotation has been accepted, any price changes will need to be agreed to by both supplied and customer. If you decline to accept the new proposal your deposit will be refunded.

### Delivery and Collection of Orders

- If a date for delivery or performance is nominated by the Customer, the Supplier will not be bound to deliver the goods or perform the services by that date unless it expressly agrees to do so in writing, signed by the Supplier, in which case, it will be deemed to agree to use reasonable endeavours to deliver or perform the services by the relevant date. The Supplier shall be excused from any failure to deliver or perform which is contributed to by causes beyond its reasonable control and the time specified for completion of delivery or performance shall be extended commensurately. Delay in delivery, performance or completion shall not constitute a breach of this Agreement, nor shall it affect any other provisions of this Agreement to the Supplier's disadvantage.

### The Supplier Credits and Clean Energy Regulator

- The Supplier will, following completion of the supply, provide the Customer with documentation to effect any voluntary assignment of the Supplier credits available under the relevant renewable energy legislation.
- The Supplier's quotation form will include The Supplier's estimate of the available Supplier credits (**STCs**). The STCs estimate provided by the Supplier is given in good faith at the time of the quotation but may vary from the actual STC discount available at the time of installation of the goods or provision of the services to the Customer. The Supplier will notify the Customer of the actual STC discount available at the time of installation. The Supplier will not be liable for any variation in the STCs available to the Customer. For the avoidance of doubt, you will be liable to The Supplier for 100% of the quoted price, some of which may be offset by your voluntary assignment of available STCs to The Supplier. You will be entitled to terminate the contract if the difference differs by more than 10% and the decision to terminate is made prior to installation. A full refund will be offered under these circumstances or you may enter into a new contract with the supplier for a different quotation.
- The Supplier will provide the Customer with the STC Assignment Form on the day of installation. The Customer will not receive any STC discount or rebate until the STC Assignment Form is signed and returned to The Supplier.
- The Customer must not assign the right to create Renewable Energy Certificates (**RECs**) unless they are the legal owner of the small generation unit (**SGU**) listed in the quotation, order or other document provided by the Supplier.
- If any assignment of the right to create RECs is deemed invalid for any reason at any time, the Customer will immediately repay to The Supplier the REC payment and any other cost, loss or damage that The Supplier has incurred or suffered as a result of the invalid assignment.
- The Customer warrants that it will comply with any relevant Renewable Energy legislation including retaining receipts and proof of installation for the life of any RECs, and refrain from providing any misleading information in any documents.

### Building and Construction Industry Security of Payment Act

- For the purposes of the Building and Construction Industry Security of *Payments Acts* (or equivalent acts) existing or enforceable from time to time in each State or territory in Australia:
  - Every date on which goods or services are supplied shall be deemed a reference date, and The Supplier shall be entitled to issue payment claims accordingly.
- It shall be sufficient service of a payment claim if it is posted to your postal address as nominated on any quotation form or to any other postal address that you nominate to us from time to time.

### Warranty

- The Supplier warrants that all goods supplied shall be free from defect in materials and workmanship under normal application, installation, use and service conditions for a period of 5 years. The period of time which will be applied to each of these goods supplied (**Product Warranty Period**) in excess of the standard 5 year warranty will be dependent upon the goods supplied and will be nominated by the Supplier at its sole discretion upon the purchase of each good.
- During the 5 year warranty period, you will not be liable for any costs related to repair or replacement of faulty product. If the fault or failure is found to be the result of mistreatment of the goods, the supplier reserves the right to recover these costs from you.
- This warranty will not be voided if the goods are repaired or serviced by a suitable qualified technician during the warranty period. The supplier reserves the right to void this warranty should the product be damaged during this process. The goods must be used and maintained as per manufacturers directions for this warranty to apply. Use outside of manufacturers directions could result in a termination of this warranty agreement.

### Jurisdiction

- The Customer acknowledges and agrees that this agreement will be governed by the laws of South Australia, and the laws of the Commonwealth of Australia which are in force in South Australia.
- The Customer acknowledges and agrees that any contract for the supply of goods or services between the Supplier and the Customer is formed at the address of the Supplier.
- The parties to this agreement submit to the non-exclusive jurisdiction of the courts of South Australia and the relevant federal courts and courts competent to hear appeals from those courts.

### Formation of contract

- The Supplier reserves the right to accept or reject, at its discretion, any offer to purchase received by it. Only written acceptance by the Supplier of the Customer's offer will complete a contract.
- Placement of an order, either verbally or in writing, will imply acceptance of the Supplier's offer and of the terms and conditions set out herein. Each quotation provided will be in accordance with the terms and conditions set out herein.

### Cooling Off Period

- This agreement is subject to a cooling off period of 10 days which is offered when the sale was made as an unsolicited sales call. There is no cooling off period for sales originated through direct customer contact to the supplier.
- During the cooling off period, you may give notice to the seller of rescission of this agreement. That notice must be in writing and delivered to the seller, either in person or by pre-paid post addressed to the Supplier.
- Within the 10 day cooling off period the client is entitled to the refund of their full deposit with no charges.

### Cancellations and Changes to System Design

- All changes to the system design, including estimated performance, must be agreed to by you and the supplier.

26. In the event that changes are made at the request of the Supplier, a refund of all money paid will be available to you minus any reasonable fees for costs incurred by the business if you don't accept these changes.

**Retention of title**

27. Title in the goods does not pass to the Customer until the Customer has made payment in full for the goods and, further, until the Customer has made payment in full of all the other money owing by the Customer to the Supplier (whether in respect of money payable under a specific contract or on any other account whatsoever).
28. Whilst the Customer has not paid for the goods supplied in full at any time, the Customer agrees that property and title in the goods will not pass to the Customer and the Supplier retains the legal and equitable title in those goods supplied and not yet sold.
29. Until payment in full has been made to the Supplier, the Customer will hold the goods in a fiduciary capacity for the Supplier and agrees to store the goods in such a manner that they can be identified as the property of the Supplier, and will not mix the goods with other similar goods.

**Miscellaneous**

30. The Supplier is not liable for any loss caused to the Customer by reason of strikes, lockouts, fires, riots, war, embargoes, civil commotions, acts of God or any other activity beyond the Supplier's control.
31. In relation to the supply of goods, the Supplier's liability is limited to:
- (a) replacing the goods or supplying similar goods;
  - (b) repairing the goods;
  - (c) providing the cost for replacing the goods or for acquiring equivalent goods; and
  - (d) providing the cost for having the goods repaired.
32. In relation to the supply of services, the Supplier's liability is limited to:
- (a) supplying the service again; or
  - (b) providing for the cost of having the services supplied again.
33. The supplier will not substitute product without the express permission of the customer.

**Entire agreement**

34. This agreement constitutes the entire agreement between the parties relating in any way to its subject matter. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this agreement are merged in this agreement and are of no further effect. No oral explanation or information provided by a party to another affects the meaning or interpretation of this agreement or constitutes any collateral agreement, warranty or understanding.
35. Notwithstanding the preceding paragraph, in circumstances where there is a pre-existing written credit agreement (**Original Agreement**) between the Customer and the Supplier, these terms and this agreement will constitute a variation of the Original Agreement whereby the terms of the Original Agreement are deleted and replaced with the terms herein, unless the terms of the Original Agreement are otherwise expressly or implicitly preserved by the terms herein in which case they will co-exist with the terms herein, and, to the extent of any inconsistency, these terms will prevail.

**Privacy Act**

36. The Customer agrees to the terms of the Privacy Statement pursuant to the *Privacy Act 1988* (as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* contained in this document.