

## **1 Definitions**

- 1.1 “Client” means the client (or any person acting on behalf of and with the authority of the Client) as described on any Quote, work authorisation or other form as provided by COLA SOLAR to the client.
- 1.2 “COLA SOLAR” means Bedlam Enterprises Pty Ltd trading as Cola Solar (ACN 137 966 628), its successors and assignors or any person acting on behalf of and with the authority of Bedlam Enterprises Pty Ltd trading as Cola Solar.
- 1.3 “Conditions” means these Standard Terms and Conditions of Trade.
- 1.4 “Credit Account” means a fourteen (14) day commercial credit account opened and operated by COLA SOLAR and the Client in accordance with these Conditions.
- 1.5 “Credit Information” has the same meaning given to that term in Section 6N of the Privacy Act.
- 1.6 “CRB” means credit reporting body and has the meaning given to that term in Section 6N of the Privacy Act.
- 1.7 “Deposit” means the initial amount of the Price payable by the Client to COLA SOLAR, as determined by COLA SOLAR and in accordance with clause 4 of these Conditions.
- 1.8 “Goods” shall mean all goods supplied by COLA SOLAR to the Client (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, Quote, work authorisation or any other forms as provided by COLA SOLAR to the Client.
- 1.9 “Guarantor” means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.
- 1.10 “PPSA” means the *Personal Property Securities Act 2009* (Cth) and its associated regulations as varied from time to time.
- 1.11 “PPSR” means the Personal Property Security Register.
- 1.12 “Price” means the Price payable for the Goods as agreed between COLA SOLAR and the Client in accordance with clause 4 of these Conditions.
- 1.13 “Privacy Act” means the *Privacy Act 1988* (Cth) and its associated regulations as varied from time to time.
- 1.14 “Quote” means the estimation of Price given to the Client by COLA SOLAR from time to time.
- 1.15 “Secured Property” means the property interests created under clause 28 of these Conditions.
- 1.16 “Security Interest” has the same meaning given to the term under section 12 of PPSA.
- 1.17 “Services” means all services supplied by COLA SOLAR to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).

## **2 Application of Conditions**

- 2.1 Any instructions received by COLA SOLAR from the Client for the supply of Goods and/or the Client’s acceptance of Goods supplied by COLA SOLAR shall constitute acceptance of the Conditions contained herein.
- 2.2 Where more than one (1) Client has entered into these Conditions, the Clients shall be jointly and severally liable for all payments of the Price.
- 2.3 Upon acceptance of these Conditions by the Client the Conditions are binding and can only be amended with the written consent of COLA SOLAR.
- 2.4 Goods are supplied by COLA SOLAR only on the Conditions contained herein to the exclusion of anything to the contrary in the terms of the Client’s order notwithstanding that any such order is placed on terms that purport to override these Conditions.
- 2.5 The Client’s failure to object to any of the any terms and/or conditions stated by COLA SOLAR does not alter the following Conditions.

## **3 Previous Dealings**

- 3.1 Previous dealings between COLA SOLAR and the Client shall not have any effect on these Conditions.

## **4 Deposit, Price and Payment**

- 4.1 At COLA SOLAR’s sole discretion the Price shall either be:
  - (a) as indicated on invoices provided by COLA SOLAR to the Client in respect of Goods supplied; or
  - (b) COLA SOLAR’s Quote (subject to clause 4.2) which shall be binding upon COLA SOLAR provided that the Client accepts the Quote in writing within thirty (30) days.
- 4.2 In the event that there is a variation to the Quote, COLA SOLAR reserves the right to change the quoted Price. The customer is entitled to a full refund if the variation is not accepted by the customer.
- 4.3 The Client acknowledges there is a metering charge for PV installation to be determined by the Clients selected retailer.

- 4.4 The Client acknowledges that the products sold by COLA SOLAR are priced on the Client's property being in a condition for installation and that upgrades to existing infrastructure may be required, at the Client's cost, for the installation to be completed.
- 4.5 The Deposit payable is due and payable to, or at the discretion of COLA SOLAR, upon the Client's acceptance of the offer. COLA SOLAR will present the payment and hold the Deposit on and subject to the terms set out in this document.
- 4.6 Time for payment of the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due seven (7) days following the date of installation.
- 4.7 Payment will be made by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Client and COLA SOLAR.
- 4.8 Payment is deemed to be received by COLA SOLAR when the funds are received or when the proceeds or other methods of payment are credited and cleared to COLA SOLAR's bank account.
- 4.9 Notwithstanding any outstanding deliveries, where payment is overdue, COLA SOLAR may at its option cancel uncompleted contracts or orders or suspend further delivery of outstanding Goods.

## **5 Payment Claims**

- 5.1 COLA SOLAR may submit detailed progress payment claims in accordance with COLA SOLAR's specified payment schedule. Such payment claims may include the reasonable value of authorised variations and the value of any materials delivered to the site but not yet installed.
- 5.2 All payment claims are made pursuant to Section 14 of the *Building & Construction Industry Security of Payment Act (Vic) 2002*.

## **6 Quotes**

- 6.1 COLA SOLAR may from time to time issue Quotes for the supply of Goods. All Quotes issued by COLA SOLAR to the Client are subject to these Conditions.
- 6.2 Unless otherwise stated, any Quote will remain open for acceptance to the date stated on the Quote, and if no date is specified, for 30 days unless withdrawn earlier by COLA SOLAR.
- 6.3 A Quote may be accepted by signing and returning the Quote. If COLA SOLAR accepts a Quote, the Client is also accepting all of these Conditions without amendment.
- 6.4 COLA SOLAR reserves the right to refuse any order placed by acceptance of a Quote within Seven (7) days of receipt of the acceptance COLA SOLAR may in its absolute discretion accept an order from the Client in respect of the supply of Goods.
- 6.5 These Conditions apply to any such purchase order accepted to the exclusion of any terms stated on the Purchase Order
- 6.6 In the event the Client is an individual, by signing the acceptance of a Quote, the client warrants that the client is authorized to accept these Conditions on behalf of the relevant entity.

## **7 Cooling Off Period (unsolicited sales)**

- 7.1 A ten (10) business day cooling off period will be given to any unsolicited sales, in which a customer may cancel the accepted quote without penalty.

## **8 Quote Variations**

- 8.1 COLA SOLAR will accept cancellation and refund deposit (minus application costs) if approval from distributor is rejected entirely.
- 8.2 COLA SOLAR will request consent if any significant changes need to be made to design of system prior to installation. A full refund will be given if variations or additional costs are not accepted.
- 8.3 If the estimated time frame of an installation is delayed for reasons within COLA SOLAR'S control, a customer may cancel their pending installation and a full refund will be given.
- 8.4 A customer may cancel their contract without penalty if site conditions do not allow COLA SOLAR to undertake the installation at the agreed installation cost.

## **9 Commitment to Australian Consumer Law & CEC Code of Conduct**

COLA SOLAR terms and conditions are in conjunction with consumer rights under warranty and consumer guarantees under consumer law. COLA SOLAR will comply with the Clean Energy Council Solar PV Retailer Code Of Conduct.

## **10 Delivery of Goods**

- 10.1 In the event that the Goods are delivered by COLA SOLAR, or the nominated carrier of COLA SOLAR, delivery of the Goods will be deemed to have taken place when the Client takes possession of the Goods at the Client's nominated address.
- 10.2 COLA SOLAR reserves the right to include the costs of delivery in the Price.
- 10.3 The Client shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as agreed to by the parties, COLA SOLAR reserves the right to charge a reasonable fee for redelivery.

- 10.4 items provided by COLA SOLAR will not be substituted without prior agreement with customer.
- 10.5 COLA SOLAR may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid in accordance with these Conditions.
- 10.6 The failure of COLA SOLAR to deliver the Goods shall not entitle either party to treat these Conditions as being repudiated.
- 10.7 When circumstances are beyond the control of COLA SOLAR, COLA SOLAR shall not be liable for any loss or damage whatsoever due to failure of COLA SOLAR to deliver the Goods (or any of them) promptly or at all.

#### **11 Grid Connection and tariffs**

- 11.1 The Client acknowledges that all PV systems will not be sending power to the grid connection until metering and connection by the Client's selected electricity retailer is complete.
- 11.2 Grid connection paperwork is completed by COLA SOLAR.
- 11.3 COLA SOLAR provides no guarantee that the Client will be accepted into any Australian State or Territory feed-in tariff scheme or that the Client will receive feed-in tariffs and recommend that the Client make independent enquiries in relation to the Client's eligibility for, and the operation of, any feed-in tariff scheme.

#### **12 Risk and Insurance**

- 12.1 Risk of damage to or loss of the Goods which is the subject of an order passes to the Client immediately upon dispatch from COLA SOLAR, that is, whilst on transit for delivery to the Client or where COLA SOLAR are storing the Goods or have arranged the storage of the Goods for the Client.
- 12.2 If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Client, COLA SOLAR is entitled to receive all insurance proceeds payable for the Goods. The production of these Conditions by COLA SOLAR is sufficient evidence of COLA SOLAR's rights to receive the insurance proceeds without the need for any person dealing with COLA SOLAR to make further enquiries.
- 12.3 The Client acknowledges that Goods supplied may exhibit variations in shade, colour, texture, surface and finish, and may fade or change colour over time. COLA SOLAR will make every effort to match batches of product supplied in order to minimise such variations but shall not be liable in any way whatsoever where such variations occur.
- 12.4 Where COLA SOLAR is required to install the Goods the Client warrants that the structure of the premises or equipment in or upon which the Goods are to be installed or erected is sound and will sustain the installation and any work incidental thereto and COLA SOLAR shall not be liable for any claims, demands, losses, damages, costs and expenses howsoever caused or arising in connection with the installation and work incidental thereto.

#### **13 Underground Locations**

- 13.1 Prior to COLA SOLAR commencing any work the Client must advise COLA SOLAR of the precise location of all underground services on the site and clearly mark the same.
- 13.2 The underground mains & services the Client must identify include, but are not limited to, electrical services, gas services, sewer services, pumping services, sewer connections, sewer sludge mains, water mains, irrigation pipes, telephone cables, fibre optic cables, oil pumping mains, and any other services that may be on site.
- 13.3 Whilst COLA SOLAR will take all care to avoid damage to any underground services the Client agrees to indemnify COLA SOLAR in respect of all and any liability claims, loss, damage, costs and fines as a result of damage to services not precisely located and notified in accordance with clause 16.1.

#### **14 Client Responsibilities**

- 14.1 The Client agrees to remove any furniture, furnishings or personal goods from the vicinity of the works and agrees that COLA SOLAR shall not be liable for any damage caused to those items through the Client's failure to comply with this clause.
- 14.2 The Client shall ensure that COLA SOLAR has clear and free access to the work site at all times to enable them to undertake the works. COLA SOLAR is not liable for any loss or damage to the site (including, without limitation to pathways, driveways and concreted or paved or grassed areas) unless such damage is as a result of COLA SOLAR's negligence.
- 14.3 The Client acknowledges it is the sole responsibility of the Client to negotiate individual tariffs and electricity rates with the Client's selected retailer.

## 15 Title

- 15.1 COLA SOLAR and the Client agree that the legal and equitable ownership of the Goods shall not pass until:
- (a) the Client has paid COLA SOLAR all amounts owing for the particular Goods; and
  - (b) the Client has met all other obligations owed to COLA SOLAR in respect of all contracts between COLA SOLAR and the Client.
- 15.2 Receipt by COLA SOLAR of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised. In the case of payment by cheque, payment will not be deemed to have occurred until the cheque is presented and cleared by the Client's bank. Until title to the Goods passes to the Client, it will have possession of the Goods as a bailee.
- 15.3 Until payment for the Goods has been discharged, COLA SOLAR's ownership or rights in respect of the Goods shall continue.
- 15.4 It is agreed further that:
- (a) where practicable the Goods shall be kept separate and identifiable until COLA SOLAR has received payment and all other obligations of the Client are met;
  - (b) until such time as ownership of the Goods shall pass from COLA SOLAR to the Client COLA SOLAR may give notice in writing to the Client to return the Goods or any of them to COLA SOLAR. Upon such notice the rights of the Client to obtain ownership or any other interest in the Goods shall cease;
  - (c) COLA SOLAR reserves the right to stop Goods in transit;
  - (d) if the Client sells the Goods before title to the Goods passes to it, the Client must hold the cash proceeds of sale of the Goods on trust for COLA SOLAR in a separate account until the Client's liability to COLA SOLAR has been discharged;
  - (e) the Client acknowledges that until such time as title in the Goods has passed to the Client that they shall be responsible for the care and maintenance of the Goods and the Client shall insure the Goods against theft or any damage until such time as title in the Goods has passed to the Client;
  - (f) the Client shall not deal with the money of COLA SOLAR in any way which may be adverse to COLA SOLAR;
  - (g) the Client shall not charge the Goods in any way nor grant nor otherwise give any interest in the Goods while they remain the property of COLA SOLAR;
  - (h) COLA SOLAR can issue proceedings to recover the Price of the Goods sold notwithstanding that ownership of the Goods may not have passed to the Client;
  - (i) in the event the Client uses the Goods in a manufacturing process or the Goods otherwise become incorporated into other equipment before title to the Goods passes to it, the Client will hold on trust for COLA SOLAR in a separate account that part of the proceeds of sale of the equipment into which the Goods have been incorporated which is equal to the amount owed by the Client to COLA SOLAR at the time of the receipt of the proceeds; and
  - (j) in the event that COLA SOLAR does not receive payment for the Goods from the Client by the time required under these Conditions, the Client irrevocably authorises COLA SOLAR to enter the premises of the Client at which the Goods are located and recover the Goods. In such event, COLA SOLAR reserves the right to re-sell the Goods following their recovery under this clause 15.4.

## 16 Defects

- 16.1 The Client warrants that they will inspect the Goods on delivery and shall within seven (7) days of connection notify (**Notification**) COLA SOLAR of any alleged defect, shortage in quantity, damage or failure to comply with the description or Quote.
- 16.2 In the event that Client makes a Notification in accordance with clause 16.1, the Client grants COLA SOLAR access to the premises to inspect the Goods.
- 16.3 If the Client does not make a Notification in accordance with clause 16.1, the Goods shall be presumed to be free from any defect or damage.
- 16.4 Upon receiving a Notification, if COLA SOLAR deems the Goods to be defective, short in quantity, damaged or not in compliance with the description or Quote it is acknowledged by the parties that:
- (a) the Client is entitled to reject the Goods; and
  - (b) COLA SOLAR's liability is limited to either replacing the Goods or if the law permits, repairing the Goods.

16.5 Time is of the essence with regards to the Client making a Notification under clause 16.1.

## **17 Warranty**

17.1 Subject to clause 17.3, if any defect in any workmanship of COLA SOLAR becomes apparent and is reported to COLA SOLAR within sixty (60) months of the date of delivery then COLA SOLAR reserves the right to:

- (a) replace the Goods; or
- (b) remedy the workmanship of the Goods.

17.2 Time is of the essence with regards to clause 17.1.

17.3 The conditions applicable to the warranty given by clause 17.1 include:

- (a) the warranty shall not cover any defect or damage which may be caused or partly caused by or arise through:
  - (i) failure on the part of the Client to properly maintain any Goods;
  - (ii) failure on the part of the Client to follow any instructions or guidelines provided by COLA SOLAR;
  - (iii) any use of any Goods otherwise than for any application specified on a Quote;
  - (iv) the continued use of any Goods after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; and
  - (v) any accidental damage beyond the control of COLA SOLAR or any act of God.
- (b) In respect of all claims COLA SOLAR shall not be liable to compensate the Client for any delay in either replacing or remedying the workmanship or in properly assessing the Client's claim.
- (c) COLA SOLAR's liability shall cease and COLA SOLAR shall thereafter in no circumstances be liable under the terms of the warranty if the workmanship is repaired, altered or overhauled by an unqualified, inexperienced or unskilled technician

17.4 COLA SOLAR provides a five year warranty on the operation and performance of the entire system including workmanship and products

## **18 Intellectual Property**

18.1 The supply of Goods shall not entitle the Client to any intellectual property rights in or related to the Goods, all of which remain the exclusive property of COLA SOLAR or the relevant manufacturer.

18.2 Where COLA SOLAR has designed, drawn or written Goods for the Client, then the copyright in those designs and drawings and documents shall remain vested in COLA SOLAR, and shall only be used by the Client at COLA SOLAR's discretion.

18.3 The Client warrants that all designs or instructions to COLA SOLAR will not cause COLA SOLAR to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify COLA SOLAR against any action taken by a third party against COLA SOLAR in respect of any such infringement.

18.4 The Client hereby authorises COLA SOLAR to utilise images of the Goods designed or drawn by COLA SOLAR in advertising, marketing, or competition material by COLA SOLAR.

## **19 Payment Default**

19.1 The Client indemnifies COLA SOLAR for any losses, costs or expenses incurred by COLA SOLAR as a result of a breach of these Conditions by the Client, including but not limited to:

- (a) COLA SOLAR's legal fees on a full indemnity basis;
- (b) COLA SOLAR's has the right to charge interest on overdue invoices at the rate of 11.5% per annum; and
- (c) any expenses incurred by COLA SOLAR as a result of a cheque drawn by the Client being dishonoured.

19.2 Clause 19.1 survives the cancellation of the Client's Credit Account.

## **20 Default**

20.1 The Client will be in default of these Conditions if:

- (a) the Client breaches any provision contained in the Conditions;
- (b) payment for the Goods has not been received by COLA SOLAR when payment falls due pursuant to clause 4;
- (c) the Client, being an individual, commits an act of bankruptcy or becomes insolvent under administration;

- (d) the Client, being a body corporate, becomes an externally-administered or has an application for winding up filed against it by a third party; and COLA SOLAR, in its absolute discretion, has reasonable grounds to believe that the Buyer's creditworthiness or solvency has been diminished.

## **21 Rights of COLA SOLAR in the event of Default**

- 21.1 In the event that the Client defaults under clause 20, COLA SOLAR may:
- (a) treat these Conditions with the Client as being repudiated and commence legal proceedings against the Client for breach of contract; and/or
  - (b) refuse or withhold supply of the Goods to the Client; and/or
  - (c) without notice to the Client, make all monies owing to COLA SOLAR immediately due and payable; and/or
  - (d) exercise any rights of COLA SOLAR under clause 23 of these Conditions.

## **22 Guarantee**

- 22.1 The Guarantor unconditionally and irrevocably indemnifies COLA SOLAR against any loss COLA SOLAR suffers due to any failure by the Client failing to meet their payment obligations under clause 4, or otherwise fails to comply with any other clause of these Conditions.

## **23 Cancellation**

- 23.1 A Client's order lodged with COLA SOLAR may not be cancelled and delivery of the Goods be deferred without COLA SOLAR's consent.
- 23.2 No application for cancellation will be considered unless made in writing by the Client to the COLA SOLAR.
- 23.3 In the event that COLA SOLAR accepts the cancellation, COLA SOLAR reserves the right to retain part/all of Deposit paid for any reasonable costs incurred by COLA SOLAR prior to install.
- 23.4 In the event a Client cancels an order for Goods made to the Client's specifications or non-stock list items, the Client acknowledges that they are liable for any costs or losses incurred by COLA SOLAR (including but not limited to loss of profits) in respect of the Order.

## **24 Shortage**

- 24.1 Details of any Goods as recorded by COLA SOLAR upon dispatch will be conclusive evidence of the quantity received by the Client upon delivery unless the Client provides conclusive evidence proving the contrary within seven (7) days from dispatch.
- 24.2 The Client waives any claims in respect of any shortages for any Goods delivered unless a notice of a claimed short delivery is submitted to COLA SOLAR within seven (7) days from Dispatch.

## **25 Severability**

- 25.1 Any provision of these Conditions which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. This does not invalidate the remaining provisions of these Conditions nor does it affect the validity or enforceability of that provision in any other jurisdiction.

## **26 No Waiver**

- 26.1 COLA SOLAR's failure to enforce any provision of these Conditions at any time or for any period of time will not be construed to be a waiver of such provisions or the COLA SOLAR's rights to enforce each and every provision of these Conditions. A waiver of a power or right shall be ineffective unless it is in writing and signed by COLA SOLAR.

## **27 Privacy**

- 27.1 The Client agrees for COLA SOLAR to obtain from a CRB a credit report containing Credit Information about the Client in relation to credit provided by COLA SOLAR.
- 27.2 The Client agrees that COLA SOLAR may exchange information about the Client with those credit providers and with COLA SOLAR's related body corporates for the following purposes:
- (a) to assess an application by the Client; and/or
  - (b) to notify other credit providers of a default by the Client; and/or
  - (c) to exchange information with other credit providers as to the status of this Credit Account, where the Client is in default with other credit providers; and/or

- (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- 27.3 The Client agrees that Credit Information provided may be used and retained by COLA SOLAR for the following purposes (and for other agreed purposes or required by law):
- (a) the provision of Goods; and/or
  - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods; and/or
  - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
  - (d) enabling the collection of amounts outstanding in relation to the Goods.
- 27.4 COLA SOLAR may give information about the Client to a CRB for the following purposes:
- (a) to obtain a consumer credit report; and
  - (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 27.5 The information given to the CRB may include:
- (a) Credit Information as outlined in 27.1 above;
  - (b) name of the credit provider and that COLA SOLAR is a current credit provider to the Client;
  - (c) whether the credit provider is a licensee;
  - (d) the type of consumer credit;
  - (e) details concerning the Client's application for credit or commercial credit (including but not limited to the date of commencement/termination of the Credit Account and the amount requested);
  - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and COLA SOLAR has been paid or otherwise discharged and all details surrounding that discharge(e.g. dates of payments);
  - (g) information that, in the opinion of COLA SOLAR, the Client has committed a serious credit infringement; and
  - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 27.6 The Client shall have the right to request (by e-mail) from COLA SOLAR:
- (a) a copy of the information about the Client retained by COLA SOLAR and the right to request that COLA SOLAR correct any incorrect information; and
  - (b) that COLA SOLAR does not disclose any personal information about the Client for the purpose of direct marketing.
- 27.7 COLA SOLAR will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of these Conditions or is required to be maintained and/or stored in accordance with the law.
- 27.8 The Client may make a privacy complaint by contacting COLA SOLAR via e-mail. COLA SOLAR agrees to respond to any such complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at [www.oaic.gov.au](http://www.oaic.gov.au).

## **28 Creation of a Security Interest**

- 28.1 The Client acknowledges that title to the Goods remains vested in COLA SOLAR and will not pass to the Client until the price for the Goods and any other amounts that may remain outstanding by the Client to COLA SOLAR from previous transactions has been paid in full and received by COLA SOLAR.
- 28.2 The Client acknowledges that until such time as title in the Goods has passed to the Client that the Client shall be responsible for the care and maintenance of the Goods and the Client shall insure the Goods against theft or any damage until such time as title in the Goods has passed to the Client.
- 28.3 The Client acknowledges that these Conditions constitute a security agreement within the meaning of Section 10 of the PPSA (**Security Agreement**) and that a Security Interest exists in the following:-
- (a) all Goods previously supplied by COLA SOLAR or any supplier or related party of COLA SOLAR;

- (b) all Goods that will be supplied in the future by COLA SOLAR or any supplier or related third party pursuant to the terms of these Conditions;
  - (c) the benefit of any agreement relating to the Goods;
  - (d) any proceeds from any disposal, assignment, insurance payout or other dealings with the Goods or any other rights referred to in paragraphs (a)-(d) above (**Secured Property**).
- 28.4 The Client will execute documents and do such further acts as may be required by COLA SOLAR to register the Security Interest granted to COLA SOLAR, including registering a financing statement or financing change statement or to register any other document, including for correction of any defect on the PPSR.
- 28.5 The Client agrees to:-
- (a) fully indemnify and upon demand being made by COLA SOLAR reimburse COLA SOLAR for all expenses incurred in registering a financing statement or financing change statement on the PPSR or releasing any Secured Property charged thereby;
  - (b) not register a financing change statement in respect of a Security Interest without the prior written consent of COLA SOLAR;
  - (c) not register or permit to be registered, a financing statement or a financing change statement in relation to any Secured Property in favour of any other third party without the prior written consent of COLA SOLAR; and
  - (d) immediately advise COLA SOLAR of any subsequent dealings with the Secured Property which would diminish any proceeds which COLA SOLAR may be entitled pursuant to the these Conditions.
- 28.6 To the extent that Chapter 4 of the PPSA would otherwise apply to enforcement by COLA SOLAR of any Security Interest in the Secured Property, the parties agree that the following provisions of the PPSA are excluded to the extent permitted by sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 142 and 143 of the PPSA.
- 28.7 The Client consents to the waiver of the requirement for notice under any other provision of the PPSA that the Client may notify to COLA SOLAR after the date of these Conditions and waives any rights it has to receive that notice.
- 28.8 The Client irrevocably grants to COLA SOLAR the right to enter upon the property or premises of the Client, without notice, and without being in any way liable to the Client or to any other third party, if COLA SOLAR has cause to exercise any of its rights under sections 123 or 128 of the PPSA, and the Client shall indemnify COLA SOLAR from any claims made by any third party as a result of any such exercise of this right.
- 28.9 The Client agrees and acknowledges that in the event that COLA SOLAR is unable to register its Security Interest as created by operation of this clause 28 of these Conditions and therefore either has its Security Interest deferred in priority, extinguished or subrogated to the right of the Client or any other third party and is unable to take priority in the Secured Property, or register any part or all of COLA SOLAR's Security Interest then the Client agrees to fully indemnify COLA SOLAR against all loss or damages as sustained by COLA SOLAR arising from or in connection with COLA SOLAR being unable to register any part or all of its Security Interest. The provisions of these Conditions shall continue to apply after the expiration or termination of these provisions.
- 29 Compliance with laws**
- 29.1 Except as expressly provided to the contrary in these Conditions, all representations, warranties, terms and conditions in relation to the Goods, whether implied or expressed, are hereby excluded unless otherwise not permitted to be excluded by law.
- 30 Jurisdiction**
- 30.1 These Conditions will take effect and be construed in all respects in accordance with the laws of the State of Victoria, Australia. The parties irrevocably submit to the jurisdiction of the State of Victoria for all proceedings arising in connection with these Conditions.
- 31 Survival of Conditions**
- 31.1 The provisions of these Conditions shall continue to apply after the expiration or termination of these Conditions.
- 32 Tax**
- 32.1 COLA SOLAR reserves the right to on charge any tax, levy, duty or other charge as prescribed by law.
- 33 Goods and Services Tax**
- 33.1 Unless otherwise stated, all amounts and prices provided in a Quote or otherwise are exclusive of GST. Where the service provided is subject to GST, it will be added and charged to the Client.
- 34 Refusal of Orders**
- 34.1 COLA SOLAR reserves the right to accept or decline any order or part of any order. COLA SOLAR may require an order to be in writing.