



Energus: Terms and Conditions of Trade

1. Solar Assets

- 1.1. You agree to buy the Solar Assets from Energus and arrange for Energus to install the Solar Assets at Your property on the terms of this Agreement and you agree to be bound by this Agreement on and from Acceptance.
- 1.2. Energus agrees to install the Solar Assets on Your property in a good and tradesmanship manner and be bound by this Agreement on and from Acceptance.
- 1.3. Energus reserves its right to terminate this Agreement for any reason within 10 business days of Acceptance.

2. Purchase Price and Amount Payable

- 2.1. You will pay the Deposit to Energus on or forthwith after Acceptance (unless Energus in its absolute discretion decides to waive payment of the Deposit).
- 2.2. The Deposit is forfeited to Energus if this Agreement is terminated as a result of your default.
- 2.3. The balance of the Amount Payable (less the Deposit) must be paid to Energus on the day of installation of the Solar Assets (consisting of the inverter and panels in the case of a Solar PV Asset and the hot water system in the case of a Solar HW Asset) at Your property. Grid connection is a matter between your electricity distributor, your electricity retailer and you. You will be responsible for the costs incurred with respect to the grid connection, if any. However, Energus will assist you to arrange connection of the Solar PV Asset to the electricity grid after installation is finished, where applicable.
- 2.4. The Parties acknowledge that the Purchase Price was based on information and details (Information) supplied by you to Energus. If either party ascertains that the Information was inaccurate and the inaccuracy will result in an increase in the costs of Energus in complying with this Agreement, then:



- a. If the Purchase Price less any applicable Promotional discounts is less than \$20,000 (Inc GST), you agree that the Purchase Price may be adjusted up to an amount of 5% to allow for such variation without the parties agreeing to a new Agreement. Energus will advise you of changes to the Purchase Price. If the information was inaccurate to such an extent that the Purchase Price should be adjusted by more than 5% then the parties will need to agree to such a change and in absence of such agreement either party may terminate this Agreement by giving 5 days written notice to the other party.
- b. If the Purchase Price less any applicable Promotional Discounts is \$12,000 (Inc GST) or more then the parties will need to agree to such a change and in the absence of such agreement either party may terminate this Agreement by giving 5 days written notice to the other party.
- c. If this Agreement is terminated in accordance with 2.4 a) and b) above, you agree that Energus is allowed to deduct reasonable amount of costs incurred for the preparation of Solar Assets for you under this Agreement.

3. Authority to Install

3.1. You authorise Energus:

- a. To install the Solar Assets at your property; and
- b. to connect the Solar PV Unit to the electricity grid (or to arrange for, or authorise, the connection of the Solar PV Unit to the grid).

3.2. You warrant that you own Your property and that you have full authority to accept this Agreement. You must ensure that Energus has sufficient access to Your property at the times it may reasonably require in order to install or remove the Solar Assets. If during the process of installation, some or all of the Solar Assets are affixed, attached or secured to land of premises at Your property, the goods are deemed not to be a fixture and may be removed by Energus at any time in accordance with this Agreement.



3.3. You must sign all documents and take all action Energus requires to install the Solar Assets and, in the case of the Solar PV Unit the connection of the Solar PV Unit to the electricity grid.

3.4. Before the installation of the Solar Assets at your property, you must at your own costs ensure that:

- a. The roof area is structurally sound and large enough to accommodate the Solar Assets,
- b. Your property complies with relevant electricity standards and relevant regulations and that it is safe to install the Solar Assets;
- c. There is properly installed at the property a bi-direction meter that can read exported electricity , and is approved by the network operator or the electricity grid. You are responsible for upgrading any other meters required;
- d. You agree to provide the installer and Energus with access to the property for the purpose of installing Solar Assets and connecting it the electricity grid; and
- e. You acknowledge that it may be unavoidable that there is some damage to the premises as a result of carrying out the installation. The installer may temporarily repair any minor damage that occurs, but Energus will not be liable for any damages caused to your property arising from any pre-existing condition of the property. Any claims for damages allegedly caused by our installer must be made to us strictly within three (3) months of the date of installation.

4. Authority to Remove on Termination and Costs Payable on Termination

4.1. If this Agreement is terminated because of your default, Energus may remove the Solar Assets from Your property if any amount remains due and payable to Energus under this Agreement 15 days after the date of termination.



- 4.2. The proceeds from any sale of Solar Assets (net of the cost of their removal and sale) may be set off against any amount due from you to Energus under this Agreement.
- 4.3. If there is a material amount payable by you to Energus under this Agreement, then you agree that such money outstanding is secured over Your property (and all Your interest in Your property is charged in favour of Energus) and Energus is entitled to lodge a caveat over the title of Your property.

5. Ownership and Risk

- 5.1. Ownership of Solar Assets on Your property passes to you after you have:
- a. paid the Amount Payable in full to Energus; and
 - b. completed any documents, or taken any action, Energus requires under this Agreement.
- 5.2. Until that time you hold the Solar Assets as a fiduciary agent and bailee (and any proceeds of sale as trustee) for Energus.
- 5.3. Risks in respect of the Solar Assets pass to you when they are installed at Your property.
- 5.4. Energus must give title of the Solar Assets to you free from all encumbrances and third party interests.

6. Government Rebates, Finance and Environmental Rights

- 6.1. Energus does not warrant that you will receive any grant, rebate, credit, other benefit or be entitled to create the environmental rights which you request for Your property.
- 6.2. You authorise Energus to sign and apply for any grant, rebate, credit or other benefit (including renewable energy certificates) in your name and to receive payment of that grant, rebate or benefit on your behalf. You or Energus must sign all documents and take all action Energus requires in order for Energus to obtain the benefit of the grant, rebate, credit or payment.



- 6.3. If Energus does not receive the benefit of the full amount of the Grants Value for any reason whatsoever (including but not limited to government changes to legislated applying to Small Scale Technology Certificates (STCs) which have the effect of reducing the number of STCs that are created), you must pay the amount of the shortfall within 21 days of Energus notifying you of that amount.
- 6.4. Clause 6.3 will not apply where the rejection of a grant, rebate, credit or benefit is due to an act or omission by Energus. If Energus is not able to rectify the act or omission within 30 days of advice of the error, the contract may be cancelled and payments for services not performed returned to you.
- 6.5. Energus has no responsibility if you are ever required to repay the grant, rebate, credit or other benefit to a government authority, except to the extent the obligation to repay arises from its negligence or fraud.
- 6.6. The customer acknowledges and agrees that the total amount payable has been calculated on the market based value of STC's at the time of the original proposal. As STC price may fluctuate, final price will be determined by the value of STC's on the day the installation is completed. Energus reserves the right to change the price in line with market value on the day of installation.
- 6.7. You must sign the forms required to assign the benefit of any environmental rights included in the Grants Value to Energus.
- 6.8. If this Agreement is subject to finance including but not limited to a loan from the government then the following provisions will apply:
 - a. you agree to use all reasonable endeavours to obtain the approval of the Finance as soon as possible;
 - b. you and Energus must keep each other fully informed of the progress of the Finance application;
 - c. if the Finance is approved, then this Agreement will be unconditional;
 - d. if the Finance is rejected, then you agree to allow Energus to appeal the decision. If the decision to reject Finance is not reversed within 30 days of notification, then this Agreement is voidable at your option;



- e. If the Finance approval is not obtained within 60 days of the date of this Agreement either party may terminate this Agreement by giving written notice to the other.

7. Termination

- 7.1. Either party may terminate this Agreement if the other party fails to comply with its terms.
- 7.2. You may elect not to buy the Solar Assets if they are not installed at Your property within 120 days after the date of this Agreement. If you cease to own Your property before the installation of the Solar Assets is complete, Energus may terminate this Agreement. If so, you will lose the Deposit to Energus and Energus reserves the right to seek compensation from you for the work undertaken.
- 7.3. If you notify Energus in writing of your decision to terminate this Agreement as provided by these Terms and Conditions prior to installation of the Solar Assets, then, unless this Agreement otherwise provides, your Deposit will be refunded to you (less expenses such as site inspection and other fees and charges incurred to the date of your cancellation) within 30 days of receipt of such notification and the Solar Assets can be used by Energus for another customer.

8. Failure to Pay

- 8.1. If you fail to pay any amount that is due and payable under this Agreement, interest accrues at the rate applicable to judgment debts in the Supreme Court in the State on the amount outstanding until paid.
- 8.2. You will also have to pay Energus any costs associated with recovery of the unpaid amount (including, but not limited to legal costs).

9. Energus Warranties

- 9.1. Energus warrants that the installer(s) engaged by Energus will install the System with due care and skill according to industry standards, once the Solar Assets are installed, during the specified warranty period(s) and under normal use and



service conditions, the System will be free from defects in workmanship or defects in, or a breakdown of, materials or components. The installation will comply with all relevant Australian standards or, where they do not exist, with the relevant international standard and with all relevant codes of practice, building codes, local government and legislative requirements in place at the time of installation.

- 9.2. During the warranty period specified in this contract of sale, Energus will cause to be repaired or replaced any defective material or component, cause to be corrected any defective workmanship, at no cost to you. New, reconditioned or upgraded parts may be used when repairs or replacements are required.
- 9.3. Energus will repair at its cost any damage to Your property that is caused in installing the Solar Assets provided that you notify Energus of that damage within 3 months after installation.
- 9.4. 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 for 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.
- 9.5. The details of Energus's solar product warranty to you are set out in Schedule 1
- 9.6. The warranty does not cover the following:
 - a. your existing electrical installation, wiring, and fuse box;
 - b. any malicious damage, damage caused by abuse, neglect or accident;
 - c. any damage caused by vermin, animals or pests;
 - d. any consequential or other loss suffered by you in connection with the installation of our products or our products failing or breaking;
 - e. any damage to your property (other than products we sold you) caused by our products failing or breaking; and
 - f. any "Force Majeure", e.g. Lightning, hail, storm or flood damage, and damage normally covered by a householders property insurance.
- 9.7. If any person other than Energus authorised personnel interferes with the System at any time, the warranty is void.



10. No Guarantee of Performance

10.1. The performance of the Solar Assets is subject to a number of variable factors including but not limited to the number of hours of sunlight, cloud cover and weather patterns, the location of the Solar Assets and the location of surrounding structures and flora.

10.2. Energus will use its best endeavours to install the Solar Assets in a position that is likely to maximise the performance of the Solar Assets.

10.3. Energus does not guarantee the performance of any Solar Assets and accepts no responsibility if the performance of any Solar Assets is lower than anticipated. This clause does not affect or diminish the manufacture's warranties in relation to the Solar Assets.

10.4. It is your responsibility to monitor the System. We will not be responsible where you have failed to monitor the System and have failed to notify us of problems.

10.5. Energus warrants that:

- a. all materials to be supplied by Energus for use in the work will be good and proper;
- b. it will perform its obligations with reasonable diligence;
- c. it will perform the work in a proper manner to trade standards and in accordance with the plans and specifications set out in this Agreement (if any);
- d. the work will be performed in accordance with all statutory requirements;
- e. to the extent required by section 18B of the Home Building Act 1989 (NSW) the work and any materials used in performing the work, will be reasonably fit for the specified purpose made known to Energus or of such a nature and quality that they might reasonably be expected to achieve the specified result made known to Energus.



11. Exclusion of Warranties and Liability

- 11.1. Energus does not make any representations or warranties to you in connection with any Solar Assets or their installation, except for those warranties set out in this Agreement and those warranties which cannot be excluded from this Agreement.
- 11.2. To the extent permitted by law, Energus's liability for breach of any express or implied condition or warranty is limited to the repair or replacement of the relevant Solar Assets.
- 11.3. To the maximum extent permitted by law, Energus has no liability to you for breach of this Agreement other than as is set out in the preceding paragraph and. In particular, Energus has no liability to pay any damages or compensation for breach of this Agreement.
- 11.4. To the maximum extent permitted by law, Energus's liability for breach of this Agreement is excluded if the breach or failure relates solely to a design or specification prepared by or on behalf of you, or a design or specification required by you, if Energus has advised you in writing that it contravenes any relevant Australian standards or, where they do not exist, with the relevant international standard or any relevant codes of practice, building codes, local government and legislative requirements in place at the time of installation.
- 11.5. Energus will not be liable or pay compensation for the value of power forgone during system failure for any reason.
- 11.6. Energus does not make any representations or warranties to you in regards to your retail electricity contract or tariff. You should contact your provider to ensure the value of the tariff and that it is correctly applied by the retailer.

12. GST

- 12.1. The Purchase Price includes applicable GST. Energus must give you a Tax Invoice for the Supply.



12.2. Capitalised terms in this clause that are not otherwise defined in this Agreement have the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

13. Information, Privacy & Government Legislation

13.1. You will provide Energus with all information it requires from you to apply for any grant, rebate, credit or other benefit which you may be entitled to receive from any Government authority. You authorise Energus to apply for credit information about you.

13.2. The information collected by Energus may include “personal information” within the meaning of the Privacy Act 1988 (Cth).

13.3. Energus will collect information from you for the purposes of applying for the grant, rebate, credit or other benefit on your behalf. Accordingly, Energus may disclose that information to or with:

- a. the relevant Government authorities;
- b. Energus’s related bodies corporate, agents and contractors (such as mail houses, data processing analysts and debt collection agencies); and
- c. where relevant, your distributor, where required to fulfil its obligations under this Agreement and also for any other purpose you consent to or as authorised by law.

13.4. If you provide Energus with personal information about another person (such as an additional account holder), please make sure that you inform that person about this privacy statement. To access the personal information Energus holds about you, call us on (02) 8021 6018. Energus’s privacy policy is available at www.energus.com.au.

13.5. By accepting this Agreement, you consent to Energus collecting, using and disclosing your information as set out in this Agreement or for any related purpose.

13.6. You and Energus agree to comply with any legislation and regulation or law concerning the subject matter of this Agreement.



14. Building Indemnity Insurance/Cooling Off

14.1. If the Purchase Price less any applicable Promotional Discounts is \$20,000 (Inc GST) or more:

- a. Energus agrees to obtain a policy of building insurance under the Home Building Act 1989 (NSW) and provide you with a certificate of insurance prior to commencing installation of the Solar Assets;
- b. You may terminate this Agreement before:
 - i. the end of 10 clear business days after both parties have signed this Agreement for any reason; or
 - ii. completion of the work if Energus has failed to comply with any of the requirements of Division 2, Part 6 of the Home Building Act 1989 (NSW).

14.2. If you terminate in accordance with clause 14.1 you must give a signed notice in writing to Energus by:

- a. leaving it at Energus's address shown in this Agreement; or
- b. sending it by prepaid certified mail to Energus's address shown in this Agreement;

14.3. If you terminate in accordance with clauses 14.1 and 14.2 this Agreement is taken to have been terminated at the time the notice is served or posted and either party may apply to the Magistrates Court for orders

- a. providing for the return or repayment of the whole or part of any money paid by you under or in relation to this Agreement; or
- b. providing for payment to Energus in respect of any materials supplied or any work or other services performed by Energus under or in relation to this Agreement.

15. Miscellaneous

15.1. This Agreement sets out the entire agreement between you and Energus.

15.2. In this Agreement, a reference to any legislation is a reference to that legislation, and any legislation that repeals or replaces it, as in force from time to time.



- 15.3. The laws of the NSW govern this document.
- 15.4. A reference to Energus includes a reference to its employees, servants, agents, installers, contractors and sub-contractors where the context so requires.
- 15.5. This Agreement may only be amended or varied by written agreement signed by all parties. Energus agrees to ensure that any variation is put into written form within the shortest practicable time and for a variation consisting of an addition to the work to put the variation into written form before the variation work is carried out (unless the work is required to be carried out urgently and it is not reasonably practicable to produce a variation document before carrying out the work).
- 15.6. Energus agrees to provide to you a copy of this Agreement once it has been signed by all parties within 5 business days.
- 15.7. Energus reserves the right, with the customers approval, to substitute comparable components that comprise the Goods. Should the customer not agree to a substitution of comparable components the customer will be entitled to a full refund.
- 15.8. Any times quoted for delivery are estimates only, involving no contractual obligation and Energus shall not be liable to the Customer to make good any damage or loss whether arising directly or indirectly out of the delay in installation and commissioning. Energus may notify the Customer of any delay in writing at its earliest convenience.
- 15.9. A reference to business days means Monday to Friday excluding NSW Public Holidays. Any other reference to days means calendar days.
- 15.10. Headings to clauses are for convenience only and shall not affect the construction of this Agreement.
- 15.11. The Customer grants permission to Energus and its employees, contractors and/or agents to enter, at any reasonable time, any property where any Goods supplied by Energus to the Customer are to be installed and commissioned, and for the purposes of pre-inspecting the property prior to any installation of Goods. The Customer agrees to make himself present at the property for such pre-



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inspection, installation and/or commissioning, when and as reasonably required by Energius or its employees, agents and contractors.

15.12. Clauses 2.2, 3.2, 4.1, 4.2, 4.3, 8.1, 8.2, 11 and 14.3 shall survive any termination of this Agreement.

Last updated: 17 March, 2016.