

OEA - TRADING TERMS

1. Definitions

In these conditions:

“**Conditions**” means the terms of these Conditions of Sale

“**Buyer**” means a person, firm or corporation seeking to acquire goods or services from the Supplier;

“**goods**” means all goods or services supplied by the Supplier to the Buyer;

“**Supplier**” means Optic Energi Australia Pty Ltd ABN 65 074 788 248 of PO Box 129 Darling Victoria 3145

2. Application of the Conditions

2.1 Unless otherwise agreed in writing, the Conditions will apply exclusively to every contract for the sale of goods by the Supplier to the Buyer and cannot be varied or supplemented by any other conditions without the prior written consent of the Supplier

2.2 Any written quotation provided by the Supplier to the Buyer concerning the proposed supply of goods is valid for 30 days, unless otherwise stated in writing, and is an invitation only to the Buyer to place an order based upon that quotation. The quotation may include additional terms which are not inconsistent with the Conditions.

2.3 The Buyer will comply with the procedure (if any) prescribed by the Supplier for the placing of orders

2.4 The Supplier will not be deemed to have accepted an order or an offer by the Buyer unless it has communicated acceptance to the Buyer in writing or has delivered the goods stated in the order.

3. Payment

3.1 Payment for goods must be made within 30 days of the date of the Supplier's invoice, unless specified otherwise.

3.2 The Supplier may withdraw any credit terms or require the provision of security at any time.

4. Payment Default

4.1 If the Buyer defaults in payment by the due date of any amount payable to the Supplier, then all money which would become payable by the Buyer to the Supplier at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Buyer, and the Supplier may, without prejudice to any other remedy available to it:-

(a) charge the Buyer interest on any sum due at the prevailing Commonwealth Bank of Australia Indicator Lending Rate plus 2% for the period from the due date until the date of payment in full;

(b) charge the Buyer for all expenses and costs (including legal costs on a solicitor/own client basis) incurred by it resulting from the default and in taking whatever action deems appropriate to recover any sum due;

(c) cease or suspend for such a period as the Supplier thinks fit, supply of any further goods to the Buyer;

(d) by notice in writing to the Buyer, terminate any contract with the Buyer so far as unperformed by the Supplier;

4.2 Clauses 4.1(c) and (d) may also be relied upon, at the option of the Supplier:

(a) where the Buyer is an individual and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or

(b) where the Buyer is a corporation and, it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Buyer.

4.3 In the event of a dispute, the Buyer will not be entitled to withhold payment of any undisputed amount due to the Supplier.

5. Passing of Property in Goods

5.1 Until full payment in cleared funds is received by the Supplier for all goods supplied to the Buyer, as well as all other amounts owing to the Supplier by the Buyer:-

(a) title and property in all goods remain vested in the Supplier and do not pass to the Buyer;

(b) the Buyer must hold the goods as fiduciary bailee and agent for the Supplier;

(c) the Buyer must keep the goods separate from the goods and maintain the labeling and packaging of the Supplier;

(d) the Buyer is required to hold the proceeds of any sale of the goods on trust for the Supplier in a separate account

(e) the Buyer must deliver up all goods to the Supplier immediately upon service of a written demand;

(f) the Supplier may without notice, enter any premises where it suspects the goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of the Supplier, and for the purpose the Buyer irrevocably licences the Supplier from and against all costs, claims, demands or actions by any party arising from such action

6. Pricing

6.1 Prices for the supply of goods include sales tax, consumption or goods and services tax, and any other taxes, duties or imposts imposed on or in relation to the goods, unless specified otherwise.

6.2 Where there is any change in the costs incurred by the Supplier in relation to the goods, the Supplier may vary its price for the goods on order to take account of any such change

6.3 Foreign Exchange Rates will be set at time of quotation, if applicable. Variation to the final price may apply, unless specified otherwise. Rates can be found at

<http://www.commbank.com.au/guides/personal/other/foreignexchangerates.asp>, “bank buys IMT's” column.

7. Delivery of the Goods

7.1 Any period or date for delivery stated by the Supplier is intended as an estimate only and is not a contracted commitment. The Supplier will use its best reasonable endeavours to meet any estimated dates for delivery of the goods.

7.2 All costs of freight and delivery of the goods to the agreed delivery address shall be borne by the Buyer, unless specified otherwise. Waiting time may be charged.

7.3 If the Buyer is unable or fails to accept delivery of the goods, the Buyer will be liable for all costs incurred by the Supplier due to storage, detention, double cartage, travel expenses or similar causes.

8. Risk and Insurance

8.1 All risk in the goods and all insurance responsibility for theft, damage or otherwise in respect of the goods will pass to the Buyer immediately upon acceptance of the goods by the Buyer.

9. Warranty

9.1 All goods and services supplied shall be free from defects in materials and workmanship for a period of 30 days, or such longer period as specified by the Supplier from the date of delivery

9.2 Calibration is the responsibility of the client upon expiry of warranty.

9.3 This warranty does not apply in circumstances where:

(a) the goods are not defective;

(b) the goods were used for a purpose other than for which they were intended;

(c) the goods were repaired, modified or altered by any person other than the Supplier;

(d) the defect has arisen due to misuse, neglect or accident;

(e) the defect has arisen due to the incorrect installation of the goods;

(f) the defect has arisen due to normal wear and tear on the goods;

(g) the goods have not been stored or maintained as recommended by the Supplier; or

(h) the Buyer is in breach of the Conditions.

10. Liability

10.1 Except as specifically set out herein, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods, whether implied by statute, common law, trade usage, custom or otherwise, it is hereby expressly excluded.

10.2 The Supplier is not liable for any indirect or consequential losses or expenses suffered by the Buyer or any third party, however caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party.

10.3 The Supplier will not be liable for any loss or damage suffered by the Buyer where the Supplier has failed to meet any delivery date or cancels or suspends the supply of goods.

10.4 Nothing in the Conditions is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods which cannot be excluded, restricted or modified.

10.5 The Supplier will not be liable for any loss of data held within any electronic or electrical device, before, during or after use of the device.

11. Cancellation

11.1 No purported cancellation or suspension of an order or contract for goods by the Buyer will be binding on the Supplier after that order has been accepted by the Supplier.

11.2 In the event of a Buyer seeking to cancel an order, the order cancellation will only be accepted after payment of a cancellation charge determined by the Supplier.

12. Governing Law

12.1 These Standard Terms and Conditions must be interpreted in accordance with the law applicable in Victoria, Australia.