

## TERMS AND CONDITIONS OF SALE

These terms apply to all quotations issued by Red Earth Energy Storage Limited (ABN 34 163 828 920) (**RedEarth Energy**) to the entity named on the sales order acknowledgement as the customer (**Purchaser**). These terms apply from the date the Purchaser accepts the document to which these terms are attached (together, the **Document**).

### 1. Supply of Goods

- 1.1 In consideration of the Purchaser's payment of the price set out in this Document, RedEarth Energy will supply the goods specified in the Document (**Goods**).
- 1.2 The Purchaser may accept this Document by informing RedEarth Energy in writing, paying any part of the price for the Goods, or by instructing RedEarth Energy to supply the Goods. If the Purchaser does not accept this Document within 30 days of its issue, RedEarth Energy is not required to honour it and may issue an updated quote or sales order.
- 1.3 The Purchaser's acceptance of this Document (including any purchase orders issued) is subject to these terms only. Any conflicting terms in the Purchaser's documents are rejected unless RedEarth Energy agrees to them in writing. These terms prevail over any terms and conditions contained in any order, offer, acceptance or other document of the Purchaser. RedEarth Energy may revoke this Document at any time prior to acceptance.

### 2. Delivery, Title And Risk

- 2.1 Title in the Goods will only pass to the Purchaser on the date that the Purchaser pays the price for this Document in full.
- 2.2 If:
- (a) the Purchaser is responsible for collecting the Goods from RedEarth Energy, risk in the Goods passes to the Purchaser once RedEarth Energy makes the Goods available for collection; or
  - (b) RedEarth Energy is responsible for delivering the Goods, risk in the Goods will pass to the Purchaser upon delivery.
- 2.3 The Purchaser must pay the costs to deliver Goods (including freight) to the agreed location, unless this Document states otherwise. Delivery timeframes are estimates only and RedEarth Energy will use reasonable endeavours to meet estimated delivery dates but does not guarantee delivery by any particular date.
- 2.4 RedEarth Energy only delivers Goods within Australia. For deliveries valued over AUD\$500,000, the Purchaser is responsible for arranging delivery and insurance at its own risk. RedEarth Energy may assist the Purchaser in arranging freight outside Australia, but any such arrangements will be subject to separately agreed terms and the Purchaser will be responsible for all associated costs, risks, and compliance requirements.
- 2.5 The Purchaser must ensure that adequate equipment, labour and safe access are available at the delivery site for unloading the Goods. The Purchaser is liable for any damage to the Goods, property or injury caused during unloading.
- 2.6 The Purchaser must pay all additional costs incurred by RedEarth Energy resulting from any changes to delivery timing, delivery address or delivery instructions requested by the Purchaser after acceptance of this Document, including but not limited to redelivery fees, storage costs and additional freight charges.
- 2.7 Where the Goods are available for collection or delivery in accordance with the agreed timeframe and collection or delivery is delayed due to circumstances caused by or within the control of the Purchaser:
- (a) the Purchaser must make all contractual payments when due regardless of the delay;
  - (b) risk in the Goods passes to the Purchaser from the date the Goods were first made available for collection or delivery;
  - (c) the Purchaser must pay reasonable storage costs actually incurred by RedEarth Energy, charged at RedEarth Energy's

then-current storage rates or, if no rates are published, at cost; and

- (d) RedEarth Energy may, at its option and upon giving reasonable notice, arrange delivery at the Purchaser's cost or dispose of the Goods and offset any proceeds against amounts owed by the Purchaser.

- 2.8 RedEarth Energy retains ownership of all Goods until the Purchaser has paid for them in full. The Purchaser cannot grant any other person rights over the Goods until they are fully paid for, and must assist RedEarth Energy in protecting its ownership rights if requested.
- 2.9 The Purchaser agrees that this Document creates a security interest under the *Personal Property Securities Act 2009* (Cth) (**PPSA**) and RedEarth Energy may register its security interest on relevant registers. The Purchaser must help RedEarth Energy (at the Purchaser's cost) to register and maintain its security interest when requested. The Purchaser waives its right to receive notices under sections 95, 118, 121, 130, 132, 135, 157 of the PPSA.

### 3. Price, Payment And Variations

- 3.1 The Purchaser agrees to pay RedEarth Energy the price for this Document in accordance with the payment terms set out in this Document.
- 3.2 All variations to the Goods must be agreed in writing between the parties and will be priced in accordance with any schedule of rates provided by RedEarth Energy, or otherwise as reasonably agreed between the parties. If RedEarth Energy considers that any instructions or directions from the Purchaser constitute a variation to the scope of the Goods or RedEarth Energy's obligations under this Document, then RedEarth Energy will not be obliged to comply with such instructions or directions unless agreed in accordance with this clause.
- 3.3 Notwithstanding clause 3.2, RedEarth Energy may vary the Goods or the Price at any time prior to collection or delivery by providing 7 days' written notice to the Purchaser to account for:
- (a) increases in raw material, labour or freight costs;
  - (b) changes in foreign exchange rates;
  - (c) new or increased taxes, duties or charges; or
  - (d) component shortages requiring alternative sourcing.
- 3.4 If any payment is overdue, RedEarth Energy may:
- (a) suspend further deliveries;
  - (b) charge interest at the Reserve Bank of Australia's cash rate plus 2% per annum, calculated daily and compounding monthly; and/or
  - (c) recover the Goods and any associated costs (including debt recovery costs).
- 3.5 The Purchaser is responsible for paying any taxes imposed by any government authority relating to the Goods, including GST where applicable.

### 4. Suitability and Fitness For Purpose

- 4.1 The Purchaser acknowledges that it is responsible for:
- (a) determining the suitability of the Goods for any particular application or installation;
  - (b) ensuring compliance with all applicable laws and codes;
  - (c) providing appropriate technical advice and installation services to end customers; and
  - (d) verifying system compatibility and performance requirements.
- 4.2 RedEarth Energy provides technical specifications and data in good faith but makes no representation that the Goods will be suitable for any particular purpose or application.

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### 5. Product Modifications and Substitutions

- 5.1 The Purchaser must not modify or tamper with the Goods, their packaging or labelling without RedEarth Energy's written consent.
- 5.2 The Purchaser must not export the Goods outside of Australia without RedEarth Energy's prior written consent.
- 5.3 RedEarth Energy reserves the right to substitute components or modify specifications where necessary due to component availability, obsolescence or improvement, provided any substitution has substantially equivalent functionality and performance characteristics. RedEarth Energy will notify the Purchaser of any material changes prior to delivery where reasonably practicable.

### 6. Supply Delays and Force Majeure

- 6.1 RedEarth Energy will not be liable for any delay in delivery caused by circumstances beyond its reasonable control, including but not limited to: supply chain disruptions, component shortages, manufacturing delays, transport delays, labour disputes, natural disasters, pandemics, government actions, or supplier failures.
- 6.2 Where delivery is delayed due to such circumstances, RedEarth Energy will use reasonable efforts to minimise delays and will notify the Purchaser as soon as practicable. Time for delivery will be extended accordingly and RedEarth Energy will not be liable for any losses arising from such delays.

### 7. Returns and Refunds

- 7.1 Subject to any rights under the Australian Consumer Law, Goods may only be returned with RedEarth Energy's prior written approval. Approved returns must be in original condition and packaging and will be subject to a restocking fee of 15% of the purchase price. RedEarth Energy will not accept returns of goods that have been modified, damaged, used or are no longer in saleable condition.
- 7.2 No refunds will be provided for change of mind, incorrect ordering, or where goods have been specially manufactured or configured for the Purchaser.
- 7.3 Claims for damaged or faulty goods are to be notified in writing with photographic evidence. For transport damage claims:
- (a) the Purchaser must note any visible damage on the freight company's delivery documentation at the time of delivery;
  - (b) the Purchaser must photograph the Goods in their original damaged packaging before unloading or unpacking, showing both the packaging and the damaged Goods;
  - (c) the Purchaser must not install, use or further unpack the Goods;
  - (d) the Purchaser must provide a written report to RedEarth Energy detailing the damage and circumstances as soon as practically possible; and
  - (e) the Purchaser must retain all packaging materials and make the Goods available for inspection by RedEarth Energy, its insurers or freight carriers.
- 7.4 Subject to any rights under the Australian Consumer Law, no transport damage claim will be accepted if the Purchaser fails to comply with these requirements or notifies RedEarth Energy more than seven (7) days after receipt.

### 8. Cancellation

- 8.1 Subject to any rights under the Australian Consumer Law, the Purchaser has no right to cancel orders once accepted by RedEarth Energy unless RedEarth Energy agrees in writing. If RedEarth Energy agrees to cancellation, the Purchaser must pay all costs incurred by RedEarth Energy including procurement costs, freight charges, and storage costs.
- 8.2 RedEarth Energy may cancel any order immediately if the Purchaser breaches these terms, becomes insolvent (to the extent permitted

by the *Corporations Act 2001* (Cth), or fails to make payment when due.

### 9. Warranty

- 9.1 Nothing in this Document is to be construed as an express warranty in respect of the Goods supplied under this Document. Any express warranty will be provided in separate documentation, which will set out the scope of warranty cover and procedures for warranty claims.
- 9.2 The Purchaser must not make, and is solely liable if they do make, any representations or warranties about the Goods that have not been made or approved by RedEarth Energy, including without limitation about the specifications or performance of the Goods.

### 10. Liability

- 10.1 Except where not permitted by law (including under the Australian Consumer Law):
- (a) RedEarth Energy's total liability is limited to the price paid for the specific Goods giving rise to the claim;
  - (b) RedEarth Energy excludes all liability for indirect, consequential or special losses including loss of profits, business interruption, loss of data, or installation-related losses;
  - (c) RedEarth Energy excludes all implied warranties except those that cannot be excluded by law; and
  - (d) where the Australian Consumer Law applies and the Goods are not of a kind ordinarily acquired for personal, domestic or household use, RedEarth Energy's liability is limited to replacement, repair or refund at RedEarth Energy's option.
- 10.2 Each party's liability will be reduced proportionately where the other party has caused or contributed to the loss.

### 11. General

- 11.1 **Adverse Incidents:** The Purchaser agrees to notify RedEarth Energy within 48 hours of becoming aware of any deaths, injuries or damage caused by or involving the Goods, or any other incidents that could lead to adverse outcomes or product recalls, and provide all information requested by RedEarth Energy.
- 11.2 **Confidentiality:** Each Party must keep confidential all information received from the other Party, and must ensure their staff do the same, except where disclosure is required by law or to professional advisers for advice, provided the adviser also maintains confidentiality.
- 11.3 **Entire Agreement:** This document constitutes the entire agreement between the parties and supersedes all prior negotiations, representations and agreements relating to the subject matter.
- 11.4 **Notices:** Notices must be in writing and sent to the addresses specified in the Document. Email notices are deemed received when sent.
- 11.5 **Governing Law:** This Document is governed by Queensland law.
- 11.6 **Severability:** If any provision is invalid or unenforceable, it will be severed without affecting the remaining provisions.
- 11.7 **Subcontracting:** We may subcontract the supply of any part of the Goods without your prior written consent. We agree that any subcontracting does not discharge us from any liability under this Document and that we are liable for the acts and omissions of our subcontractor.
- 11.8 **Survival:** Clauses 2, 3, and 10 survive the fulfillment or cancellation of this Document.
- 11.9 **Trade Mark Use:** The Purchaser does not have the right to use RedEarth Energy's brand or other trade marks in materials that have not been created by RedEarth Energy, unless RedEarth Energy has reviewed and approved such material in writing.