

## **TERMS AND CONDITIONS OF SALE**

### **1. DEFINITIONS**

In these Terms and Conditions of Sale (“Terms”):

“**Buyer/s**” means the entity/individual purchasing the Goods;

“**Contract**” means each contract between SIA and the Buyer for the sale and purchase of Goods and “order” includes “offer”;

“**Good/s**” means the goods the subject of the Contract;

“**Brand/s**” means any brand used by or sold by SIA;

“**Part/s**” means the SIA manufactured or another manufacturer supplied components and/or associated products;

“**Product/s**” means the SIA manufactured or another manufacturer supplied goods and/or parts;

“**Return/s**” means all Goods, parts or products free from defects of which the Buyer seeks replacement or refund;

“**SIA**” means Solar Injection Australia Pty Ltd A.C.N. 010 413 706, the entity selling the Goods and the brands under which it sells including but not limited to ProTech Pumps, EcoDose Fertigation Systems;

“**Warranty**” means the “Acceptable Quality” of all Goods, parts or products pursuant to Australian Consumer Law; and

“**We**”, “**Our**”, “**Us**”, “**It’s**” means SIA.

### **2. TERMS AND CONDITIONS**

The only Terms of the Contract are those agreed to in writing by SIA. These Terms (to the extent they are not inconsistent with the Terms agreed to in writing by SIA) and those which are implied or imposed by law (including the *Competition and Consumer Act 2010 (Cth)*) to the extent that it is not lawful or possible to exclude them. All other terms, conditions and warranties are expressly excluded. If a conflict arises between the terms of any order made by the Buyer and these Terms, these Terms will prevail. An agreement to deliver the Goods in instalments is taken to be a separate Contract for each instalment.

These Terms and each Contract are governed by the laws of Queensland and the Commonwealth and SIA and the Buyer irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts in Queensland and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, but not limited to, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

Each of the Terms are severable and distinct from one another and if at any time any one or more of the Terms is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining Terms will not in any way be affected or impaired.

### **3. QUOTATIONS AND ORDERS**

Any quotation made by SIA will not be construed or operate as an offer or obligation to sell. SIA reserves the right to accept or reject at its absolute discretion any order received by it. Once a contract is formed, the Buyer will not be entitled to terminate or refuse delivery of, or payment for, any Contract made by it which has been accepted by SIA.

Should the Buyer terminate or modify the Contract, the Buyer shall be liable for the termination fee equal to the costs incurred by SIA, in addition to a termination fee equal to 25% of the total sum of the Contract.

#### **4. PRICE**

The price payable to SIA by the Buyer for the Goods will be the price agreed.

Prices are payable in Australian and/or US currency and are exclusive of delivery costs, taxes, duties and other imposts which, if chargeable, are payable by the Buyer.

Prices quoted in any SIA pricelist are suggested prices only and may be changed by SIA without notice.

#### **5. PAYMENT**

SIA accepts Nett cash thirty (30) days from the date of issue of the invoice, unless another form of payment has been agreed in writing between the parties.

Should payment by other means be agreed in writing by SIA such as by Visa, Mastercard, Debit Card, Money Order, Bank Cheque or EFT, SIA does not accept any liability for the processing time of a bank or any other financial institution in transferring any monies into SIA's nominated account.

It is the responsibility of the Buyer to follow up with SIA to ensure that the money has been received.

#### **6. OVERDUE ACCOUNTS**

If the Buyer fails to pay all or part of the Contract or any amount owed to SIA when due, interest will be payable on that amount from the invoice due date until all amounts owing are paid in full, at a rate of 2% compounded monthly.

#### **7. SHIPPING**

All costs incurred in shipping the Goods, will be payable by the buyer.

#### **8. RETURN POLICY**

##### **8.1 What can be returned?**

SIA may accept the return of some of the Goods, if for a legitimate reason such as, the Goods received by the Buyer differ from the Goods described in the Contract. The Buyer acknowledges and accepts that any information or guidance provided by any staff or agent of SIA is based solely on information provided by the Buyer and the Buyer acknowledges and

accepts that SIA will not be liable to accept returns for Goods that are unsuitable for the Buyer's job based on information provided by the Buyer.

SIA does not accept responsibility or liability if the Buyer has provided incorrect information, specifications or requirements or any other relevant information including but not limited to size, make or purpose of the Goods.

If any item sold by SIA is installed incorrectly by someone other than a SIA employee and that incorrect installation of that item is in any way the cause of the item failing, SIA will not be liable to exchange, refund or replace the part or any collateral damage.

## **8.2. Other manufacturer warranty**

If the Goods include products or parts that are not products or parts manufactured by SIA, SIA will return the Goods, products or parts to the manufacturer to be determined by the manufacturer if a major or non-major failure of the Goods, products or parts therein has occurred. Should the manufacturer of the goods determine that a major or non-major failure of the Goods, products or parts therein has occurred, SIA will repair, refund or replace the Goods, products or parts pursuant to its obligations under the Australian Consumer Law.

## **8.3. What is required to return?**

The original copy of the invoice must be provided to SIA. SIA will not be liable for a refund or exchange of a product because the Buyer changes its mind.

SIA will accept returns of Goods that have been incorrectly supplied by SIA, up to a maximum of 7 days from delivery date.

A warranty claim is different from returns and depends on the particular parts, manufacturer and circumstances of the claim.

## **8.4. Where do customers return items?**

SIA must be contacted and a warranty or return form provided by SIA must be completed by the Buyer for approval, prior to the Buyer returning incorrect Goods or Goods covered under a warranty.

If the Buyer purchased the Goods directly from SIA, the Goods must be sent with a copy of the original tax invoice and include up to date contact details of the Buyer and the warranty/return form fully completed.

Goods must be placed on a traceable freight Carrier and SIA does not accept responsibility or liability for lost or damaged freight in transit and further, SIA will not pay or replace lost freight. It is the Buyer's responsibility to organise and pay for the shipping of the Goods and ensure that the Goods are covered by the freight carrier's applicable insurance.

## 8.5. Who pays for returns?

All returns once approved must be forwarded to SIA. We will not pay for any costs associated with the delivery to or from any distributor/ private or commercial address for the Goods to be returned.

If the Goods, products or parts are from another manufacturer, SIA may, at their discretion, contact the 'manufacturer' to see if they will pay for the freight to us or to the manufacturer/ distributor.

SIA will not pay freight for another manufacturer's parts to be sent back for return.

## 8.6. Credit for returns

If a return has been approved in writing by SIA, the Buyer can purchase any other product to the same value. SIA will only return the money to the account or credit card number, which the original invoice was debited to, of the Buyer.

Standard product returns for credit will be subject to a minimum 20% restocking charge or \$20.00, whichever is greater to cover the refurbishing, repackaging and accounting procedures.

## 8.7. Packing materials

If Goods are returned in damaged/and/or not the original packaging, the cost of the re-packaging will be deducted from the refund amount.

## 9. WARRANTY

### 9.1. Warranty terms

The Goods of SIA come with the guarantees that cannot be excluded under the Australian Consumer Law. The Buyer is entitled to a replacement or refund for a major failure and for compensation for any other reasonable foreseeable loss or damage. The Buyer is also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality.

SIA warrants that all Goods and products it sells are free from defects in material and workmanship. All Goods and products manufactured by SIA are covered with a warranty for a period of 12 months from the date of purchase by the Buyer. ***This warranty does not apply to:***

- (1) Goods no longer required by the Buyer;***
- (2) Goods incorrectly chosen by the Buyer;***
- (3) Goods modified or altered by the Buyer (including changing colour, welding or attaching additional parts, grinding);***
- (4) misuse of the Goods by the Buyer, neglect, lack of maintenance, or improper insulation***
- (5) the resistance to or effect of corrosion of any type on any product or part***

***(6) the deterioration of rubber seals in all instances, no matter if caused as a result of failures caused by lack of proper maintenance, incompatible fluids, foreign materials in the driving media, in the pumped media or application pressures beyond the catalogue ratings or in any other way.***

SIA's obligation under this warranty is limited to repair, replacement or refund of the products, Goods, products or parts therein, depending on whether the products, Goods or parts therein have a major or non-major failure pursuant to its obligations under the Australian Consumer Law. Costs of removal, installation, freight or incidental or consequential damages will be determinant on whether the failure of the products, Goods, products or parts therein is deemed a major or non-major failure.

Further, the Buyer does hereby indemnify and hold SIA harmless from and against any loss as a result of the installation of products, Goods or parts therein of SIA, unless the loss suffered by the Buyer is independently determined to be the direct consequence of a major failure in the products, Goods or parts therein manufactured or supplied by SIA.

SIA warrants to the original Buyer only for the purchase of new Goods from SIA or authorised resellers and distributors, from the date of sale.

## **10. TITLE**

### **10.1. Title to the Goods will not pass to the Buyer until the earlier of:**

- (a) Title of the Goods expressly listed in each individual Contract will not pass until SIA has been paid in full under the Contract; or
- (b) the sale by the Buyer of the Goods in its ordinary course of business (in which case Buyer must keep an accurate account of each sale, hold the proceeds of each sale separate from the Buyer's own money and pay SIA in full from the proceeds of the purchase price of each sale despite that the payment is not otherwise due).

### **10.2. Until title to the Goods passes to the Buyer, the Buyer must:**

- (a) hold the Goods as bailed for SIA and keep them in good order and condition;
- (b) not remove any markings placed by SIA and ensure that the Goods can be readily identified and distinguished from other property in the Buyer's possession; and
- (c) deliver the Goods to SIA immediately upon demand and, for this purpose, SIA is specifically authorized to enter at any time any premises on which the Goods may be located to remove the Goods to the safekeeping of SIA (the costs incidental to which will be borne by the Buyer).

## **11. RISK**

Risk in the Goods (including insurance responsibility) passes to the Buyer upon delivery of the Goods to the place or carrier designated by the Buyer or SIA, or if sooner, Title of the Goods passes to the Buyer or its agent.

## **12. FORCE MAJEURE**

Despite any other term or condition of the Contract, SIA will not be liable for any loss, damage, expense or injury of any kind or nature suffered or incurred by the Buyer or any other person, arising out of or in connection with any delay in delivery, or failure to perform any other term or condition of the Contract where that delay or failure is caused by an act of God, fire, factory dispute, civil commotion, intervention of a government, inability to obtain lab, materials or manufacturing facilities, accidents, interruptions of or delay in transportation or any other cause beyond SIA's reasonable control, for whatever reason.

## **13. ERRORS OR OMISSIONS**

SIA has the right to correct any clerical errors or omissions, whether in computation or otherwise in any quotation, acknowledgment or document forming part of a Contract.

## **14. BREACH BY BUYER**

If the Buyer breaches a Contract or SIA is not satisfied of a Buyer's ability to pay due to delay or default in payment or otherwise comply with each Contract, SIA may by notice to the Buyer, but without compensation, terminate every Contract, suspend or cease deliveries under all Contracts, set-off all deposits against amounts due and make all amounts then outstanding by the Buyer to SIA immediately due and payable.

## **15. EXCLUSION OF OTHER TERMS AND CONDITIONS**

The Buyer and SIA agree that these Terms and Conditions govern the Contract/s entered between the parties and will prevail over any other Terms and Conditions as between the parties, in the event of any conflict between said Terms.