



TERMS and CONDITIONS

July 2008

1. GENERAL

The words –

- (a) "Vendor" means Carter Scott Manufacturing Pty Ltd. ABN 55 006 486 988 trading as Middleton Solar;
- (b) "Customer" means the applicant for a credit account with the Vendor in respect of the Products and/or the person to whom the Products are sold and/or the person in whose name an account is maintained by the Vendor for the purchase of the Products;
- (c) "Products" means all products ordered by the Customer pursuant to this Agreement.

The agreement between the Vendor and the Customer shall be constituted in its entirety by these terms and conditions together with the Vendor's quotation and any credit approval and/or guarantee required to be provided by the Customer to the Vendor (the "Agreement"). Any invoice evidencing or describing any Products is incorporated into and forms part of the Agreement. Where there is more than one Customer then the liability of each shall be joint and several. This Agreement shall take precedence over any other agreements, arrangements or understandings (whether written or oral) and, in particular, any conditions contained in the Customer's order, which are inconsistent with, qualify or are contrary to this Agreement.

Further, if there is any other document or arrangement, which conflicts with the Agreement, the Agreement shall prevail. No variation, waiver or cancellation of the Agreement will be effective unless such variation, waiver or cancellation is expressly accepted and is in writing. The Vendor may assign all or any of its rights and obligations under this Agreement. The Customer may not assign all or any of its rights and obligations under this Agreement without the prior written consent of the Vendor.

Any provision in this Agreement which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction be read down, if possible, so as to be valid and enforceable or otherwise severed to the extent of the invalidity or unenforceability without invalidating the remaining provisions hereof or without affecting the validity or enforceability of such provision in any other jurisdiction. This Agreement shall be binding on the heirs, successors and assigns of the parties hereto and shall be construed in accordance with and be governed by the laws of the jurisdiction of the Vendor's place of business.

2. PRICES

- (a) Any quotation accompanying these Conditions of Sale is valid for 30 days from the date of the quotation. Thereafter it is subject to written confirmation. Otherwise, all prices are subject to change without notice and Middleton Solar accepts all orders on condition that they will be invoiced at the price ruling at the date of dispatch.
- (b) Delivery, unless otherwise stated, is F.O.B. from Middleton Solar. Unless a mode of transport is nominated, Middleton Solar will nominate their carrier and a delivery fee will be charged.
- (c) These prices quoted do not include Goods & Services Tax unless specifically stated. If applicable, GST will be charged unless the Buyer is entitled to an exemption and, when or before the Buyer places the order, supplies Middleton Solar with a duly completed GST exemption prescribed by law.



- (d) The price and delivery periods quoted are based on the quantities offered by Middleton Solar. Middleton Solar reserves the right to re-quote should the quantities ordered by the Buyer differ from the quantities originally offered by Middleton Solar.

3. PRICE ADJUSTMENT AND VARIATION

The Company reserves the right, and is entitled to adjust prices and completion period(s) given in the event of any variations. Any changes or variations proposed to the contract by the Buyer shall be subject to quotation and agreement by the Company.

4. DELIVERY

The Vendor shall use reasonable endeavors to complete delivery of the Products. However, delivery dates or periods quoted are estimates only and are subject to prompt receipt by the Vendor of all information, other material and permits from the Customer necessary to allow the Vendor to proceed with the supply and/or delivery and/or installation of the Products. The Vendor accepts no liability whatsoever for any loss or damage suffered by the Customer as a consequence of any delay or failure to deliver any of the Products (or supply of any services) irrespective of the cause. Upon receipt of shipped Products, the delivery shall be deemed to be correct and in full, unless the Customer provides written notification to the Vendor within five working days regarding any issues pertaining to short, over or incorrect shipment of Goods (or supply of services).

5. PASSING OF RISK AND TITLE

Risk in the Products shall pass to the Customer upon the earlier of delivery of the Products to the Customer or to a carrier for delivery to the Customer. Title in the Products shall only pass to the Customer when all monies owing to the Vendor on any account whatsoever has been fully paid by the Customer. Pending such payment, the Customer shall hold the Products on trust for the Vendor; cause the Products to be kept separate and conspicuously identified as the Vendor's; treat the Products with all proper care; insure the Products against all usual risks and ensure that the interest of the Vendor is noted with the insurer. The Customer may resell the Products prior to payment to the Vendor, provided the Customer is not otherwise in breach of the Agreement, and that the proceeds of the sale are held on trust in a separate account for the Vendor and the Customer, and that as a condition of resale, conditions in respect of any passing title noting and preserving the Vendor's rights under this Agreement are included.

6. RETURNED MATERIAL

Credit not exceeding 90% of the original price is generally allowed (subject to approval at the sole discretion of the Seller) provided it is returned freight prepaid and in "as new" condition. In no case will the seller authorize the return of material more than ninety days after shipment from the Seller's Plant. The following conditions relating to the return of goods for credit apply to all goods returned for this purpose:

- (a) A Delivery Docket stating original invoice number, date of purchase and reason for return must accompany goods returned.
- (b) Non standard equipment made to special order cannot be credited under any circumstances.



- (c) Inward freight, packing and delivery charges are the responsibility of the purchaser. If not prepaid by the purchaser, freight will be deducted from the amount of the credit.
- (d) Unless otherwise agreed, goods returned will be subject to a restock fee. All goods with a net value in excess of \$20 will be subject to at least a 10% restock charge. No claim by the Buyer need be recognized unless made in writing within fourteen days after delivery of goods to the buyer. No claim for damage or resultant expense direct or indirect in respect of any goods shall in any case exceed the invoice price of the goods in respect of which any damages or expense shall arise. All damage or expense over and above such invoice price shall be the responsibility of the buyer.

7. DEFECTS LIABILITY

Middleton Solar will repair or at its option replace any part found to be defective or faulty within twelve (12) months after the date of dispatch of the goods to the Buyer but only if: -

- (a) a claim is made in writing to Middleton Solar:
- (b) within fourteen (14) working days after the date of delivery by Middleton Solar to the Buyer of the item or items said to be defective or faulty in the case of a defect or fault apparent by normal visual inspection: or
- (c) within fourteen (14) working days after the Buyer did (or might reasonably have been expected to) detect such fault or defect, in the case of a fault or defect not so apparent;
- (d) unauthorized repairs or alterations to the goods have not been carried out and the goods have not been modified or added to in any way or used other than in accordance with the manufacturer's specifications.
- (e) the defective or faulty parts are removed by the Buyer and are returned to Middleton Solar at the cost and expense of the Buyer and the cost of freighting any parts required or replaced by Middleton Solar is borne by the Buyer; and
- (f) defective or faulty parts replaced by Middleton Solar become the property of Middleton Solar.

8. WARRANTY

Middleton Solar warrants this product to be free from any defective material and workmanship and agrees to remedy any such defect or to furnish a new part in exchange for any part of any unit of its manufacture which, under normal use, and service disclose such defect, provided the unit is delivered to our factory intact for our examination with all the transportation charges prepaid, within one (1) year from the date of dispatch to the purchaser, and providing that such an examination discloses in our judgment that it is thus defective.

This warranty does not extend to any of our products which have been subjected to misuse, neglect, accident, improper installation, or to use in violation of instructions furnished by us, nor extend to units which have been repaired or altered outside our factory, nor to units used with accessories not manufactured or recommended by us.

This warranty is in lieu of all other warranties or liabilities and Middleton Solar makes no other warranty, expressed or implied. In no event will Middleton Solar be liable for consequential or resulting loss or damage, whether or not due to causes covered by this warranty.



9. PROPER LAW AND JURISDICTION

All contracts made between the Seller and the Buyer shall be governed by and construed in accordance with the laws of the State of Victoria, Australia. The Buyer agrees to submit to the non-exclusive jurisdiction of the Victorian courts for all purposes of or in connection with such contracts.

10. INTELLECTUAL PROPERTY RIGHTS

The Buyer shall not alter, remove or in any way tamper with any of the trade or other marks or numbers of the Seller attached to or placed upon the Goods.

11. LICENCES

All goods are sold and services performed on the strict understanding that all licences and permits under all relevant statutes, ordinances, rules and regulations have been obtained by the Buyer and the Buyer will ensure that the installation and use of the equipment meets all statutory requirements.

12. MODIFICATIONS

Where the Buyer re-supplies the Goods, the Buyer shall not in any way without the consent of the Seller interfere with the Goods or change the composition or appearance of the Goods. Without limiting the generality of the foregoing, the Buyer shall not conceal, remove or otherwise interfere with any warnings, labels or other markings on or affixed to the Goods.

13. WAIVER

Failure by Middleton Solar to insist upon on the strict performance of any term or condition herein contained shall not be deemed a waiver of any such term or condition or any other term or condition hereof or of any of the rights of Middleton Solar and shall not be deemed a waiver of any subsequent breach of any term or condition.