

## CONDITIONS FOR THE SUPPLY OF GOODS AND/OR SERVICES UNDER AN ENERGYAUSTRALIA PURCHASE ORDER

### 1. Definitions

In these Conditions:

**"Conditions"** means these conditions for the supply of goods and/or services.

**"Data Breach"** means any actual or suspected:

- (a) unauthorised access to, modification of, or disclosure of any EnergyAustralia Data or any Personal Information held by you on our behalf;
- (b) misuse, interference or loss of any EnergyAustralia Data or any Personal Information held by you on our behalf; or
- (c) breach of your privacy or security obligations under these Conditions or at law.

**"Defects Liability Period"** means the period of 12 months from the date of delivery.

**"Delivery Location"** means the delivery location specified in the Purchase Order.

**"Delivery Date"** means the date for delivery specified in the Purchase Order.

**"EnergyAustralia"** means the entity which issues the Purchase Order as indicated in the Purchase Order.

**"EnergyAustralia Contact"** means the person identified as such in the Purchase Order.

**"EnergyAustralia Data"** means all data, information, text, drawings or other materials embodied in any electronic or tangible medium, including data about or relating to a site or asset of the EnergyAustralia Group, about or relating to the businesses of members of the EnergyAustralia Group or customers of members of the EnergyAustralia Group, and which:

- (a) are supplied by EnergyAustralia to the Vendor under these Conditions; or
- (b) may be accessed by the Vendor in the course of providing Goods or Services under these Conditions.

**"EnergyAustralia Group"** means EnergyAustralia Holdings Limited (ABN 57 101 876 135) and its Subsidiaries (as that term is defined in the *Corporations Act 2001* (Cth)).

**"Goods"** means the goods (if any) described in the Purchase Order.

**"Good Security Practice"** means the use of up-to-date and advanced techniques and methodologies having regard to any prevailing international standards and processes (including without limit any security requirements specified as Good Electricity Industry Practice as defined in the National Electricity Rules), techniques and methodologies used by other market leading suppliers substantially similar to the Vendor which are engaged in the provision of goods or services similar to the Vendor's Goods or Services.

**"GST"** means goods and services tax within the meaning of the GST Act.

**"GST Act"** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**"Personal Information"** has the meaning given in the *Privacy Act 1988* (Cth).

**"Purchase Order"** means the purchase order form in which the relevant Goods and/or Services are specified and these Conditions.

**"Price"** means the price specified in the Purchase Order.

**"Regulatory Authority"** means:

- (a) any federal, national, multinational, state, provincial or local regulatory agency, department, bureau or other governmental entity;
- (b) any independent authority invested with responsibility under any federal, national, multinational, state or provincial regulation or

legislative instrument (or any code or other instrument made under such a regulation or legislative instrument) for regulating any aspect of the conduct of any member of the EnergyAustralia Group; and

- (c) any other body empowered in any way to regulate compliance with law.

**"Security Incident"** means current or imminent occurrence of unauthorised:

- (a) access to, or modification of; or
- (b) impairment of the security of, any part of the Vendor's provision of the Goods or Services, EnergyAustralia Data or a component of EnergyAustralia's environment and includes a Data Breach.

**"Security Laws"** means the *Security of Critical Infrastructure Act 2018* (Cth), including all applicable regulations, notifiable instruments and rules made pursuant to that Act (as amended from time to time).

**"Services"** means the services (if any) described in the Purchase Order.

**"Small Business"** means a business that:

- (a) employs fewer than 100 people and has an annual turnover of less than A\$10 million; and
- (b) is described as a small business in the Payment Times Small Business Identification Tool (as that term is defined in the *Payment Times Reporting Rules 2020* (Cth)).

**"Tax Invoice"** has the meaning defined in the GST Act.

**"Vendor"** means the supplier of the Goods and/or the Services named in the Purchase Order.

### 2. Preliminary

2.1 The Vendor will be taken to have accepted a Purchase Order by:

- (a) delivering the Goods and/or Services (or any part thereof) described in the Purchase Order to EnergyAustralia; or
- (b) otherwise representing to EnergyAustralia the Vendor's intention to deliver the Goods and/or Services.

2.2 Subject to clause 2.3, acceptance of a Purchase Order by the Vendor in the manner described in clause 2.1, without anything further, constitutes acceptance of these Conditions to the exclusion of any other terms. Therefore, unless otherwise agreed by EnergyAustralia in writing:

- (a) if the Vendor accepts a Purchase Order, the Vendor's standard terms and conditions (if any) do not apply; and
- (b) any prior representations, negotiations, arrangements, understandings or communications between the parties about a Purchase Order and/or the subject matter of a Purchase Order are superseded and replaced by these Conditions.

2.3 These Conditions will not supersede or replace any existing supply agreement in writing between the Vendor and EnergyAustralia and, unless otherwise notified by the EnergyAustralia Contact, any such existing supply agreement will continue in full force to the exclusion of these Conditions.

2.4 No changes to a Purchase Order may be made without both parties' written consent.

### 3. Delivery of Goods

3.1 The Vendor must:

- (a) deliver the Goods to the Delivery Location by the Delivery Date, or within a reasonable time if the Delivery Date is not specified;

- (b) ensure that Goods delivered match the Goods ordered;
  - (c) package the Goods so as to:
    - (i) prevent damage to the Goods; and
    - (ii) minimise waste;
  - (d) use reasonable endeavours to package the Goods using packaging that is recyclable;
  - (e) where the Goods are delivered on pallets, use reasonable endeavours to use pallets that are either recyclable or reusable and collect the reusable pallets from the Delivery Location when they are no longer required by EnergyAustralia;
  - (f) ensure that the Goods are prepared appropriately for shipment and to at least the carrier's requirements; and
  - (g) notify EnergyAustralia as soon as practicable if the delivery of the Goods is likely to be delayed.
- 3.2 The Vendor is responsible for all transport costs, including freight and insurance charges, incurred in delivering the Goods to the Delivery Location.
- 3.3 EnergyAustralia may, at any time before delivery of the Goods, inspect or test the Goods at the Vendor's premises or elsewhere.
- 3.4 Risk in the Goods remains with the Vendor until acceptance by EnergyAustralia of the Goods at the Delivery Location.
- 3.5 EnergyAustralia may, acting reasonably, reject the Goods by informing the Vendor within 30 days of delivery that the Goods do not comply with the requirements of the Purchase Order (including by not meeting the requirements of clause 3.1 or otherwise failing to meet the warranties in clause 5). EnergyAustralia will be deemed to have accepted the Goods if it does not inform the Vendor of its rejection of the Goods within that 30 day timeframe.
- 3.6 EnergyAustralia:
- (a) is not required to pay for Goods that it rejects under clause 3.5; and
  - (b) is only required to return rejected Goods to the Vendor if so requested.
- All expense and risk in rejected Goods remains at all times with the Vendor.
- 3.7 EnergyAustralia may, at any time, return to the Vendor, at the Vendor's cost, Goods found to contain a material latent defect that is not reasonably capable of being rectified under clause 3.9, and the Vendor must repay EnergyAustralia the Price paid for such defective Goods.
- 3.8 The Vendor must not subcontract or delegate the manufacture of the Goods to any other party without the prior written consent of EnergyAustralia. In any event, any subcontracting or delegation by the Vendor will not relieve the Vendor of any of its obligations arising under or in connection with these Conditions.
- 3.9 If:
- (a) EnergyAustralia notifies the Vendor of a defect in the Goods during the Defects Liability Period, the Vendor must, at its own cost, repair replace or otherwise make good that defect within a time agreed with EnergyAustralia or, failing agreement, within a time specified by EnergyAustralia acting reasonably; and
  - (b) the Vendor fails to repair, replace or otherwise make good a defect within the time agreed or reasonably specified by EnergyAustralia under clause 3.9(a), EnergyAustralia may do so or engage another party to do so at the Vendor's risk and expense.
- 3.10 The Defects Liability Period will recommence (and restart from the beginning) from the date of the repair, replacement or making good, but only in respect of that part of the Goods repaired, replaced or made good.
- 4. Provision of Services**
- 4.1 The Vendor must provide the Services:
- (a) in a prompt, safe, conscientious and professional manner exercising due care, skill and diligence and at all times acting in a proper and honest manner;
  - (b) according to all directions given by the EnergyAustralia Contact;
- (c) in compliance with:
    - (i) all applicable laws, safety regulations and ordinances; and
    - (ii) all relevant authorisations, permits and licences necessary or otherwise required by law to carry out and complete the Services or supply the Goods, and you must inform us promptly if, during the term of these Conditions, such relevant authorisations, permits or licences become no longer operative; and
  - (d) where applicable, in compliance with EnergyAustralia's work practices and site arrangements (including, without limitation, site safety arrangements) as notified by EnergyAustralia from time to time.
- 4.2 Where the Services are to be performed on EnergyAustralia's premises or in the vicinity of power lines, electrical plant and equipment or live electrical apparatus, the Vendor must not commence work until the EnergyAustralia Contact has issued the relevant authority form, unless the Vendor is appropriately authorised under applicable laws or regulations to do so.
- 4.3 At any time, if EnergyAustralia, acting reasonably, deems that the Vendor's provision of the Services fails to meet the requirements of the Purchase Order (including by not meeting the requirement of clause 4.1 or otherwise failing to meet the warranties in clause 5), it may request the Vendor to provide the Services (or any part of the Services) again and the Vendor must perform the work at no extra charge to EnergyAustralia.
- 4.4 The Vendor must not subcontract or delegate the provision of the Services to any other party without the prior written consent of EnergyAustralia. In any event, any subcontracting or delegation by the Vendor will not relieve the Vendor of any of its obligations arising under or in connection with these Conditions.
- 4.5 The Vendor must complete delivery of the Services by the Delivery Date or, if no Delivery Date is specified, within a reasonable time.
- 4.6 The Vendor agrees that:
- (a) Notwithstanding any other provision of the Purchase Order, it acknowledges that EnergyAustralia does not warrant, guarantee, or make any representation that any Goods and/or Services (or any particular volume of Goods and/or Services) will be ordered from or carried out by the Vendor under the Purchase Order; and
  - (b) it may not be the exclusive supplier to EnergyAustralia of the Goods and/or Services.
- 5. Warranties**
- 5.1 The Vendor warrants to EnergyAustralia that the Goods:
- (a) are fit for the purpose for which the Goods, or goods of the same kind, are usually acquired and any other purpose of EnergyAustralia made known to the Vendor;
  - (b) will function and perform in all respects as represented by the Vendor;
  - (c) comply with every aspect of the Goods' description in the Purchase Order or, if there is no description, the highest industry quality standards for their manufacture;
  - (d) are comprised of new and unused components;
  - (e) are of merchantable quality;
  - (f) are free from all faults and defects;
  - (g) will fully integrate with and operate within EnergyAustralia's existing operational environment;
  - (h) do not, and EnergyAustralia's use of the Goods will not, infringe any intellectual property rights of any person; and
  - (i) comply with all relevant laws.
- 5.2 The Vendor warrants to EnergyAustralia that, immediately prior to the time of delivery, it will own the Goods free of any third party or other security interests.
- 5.3 The Vendor warrants to EnergyAustralia that the performance of the Services will:
- (a) comply with every aspect of the Services' description in a Purchase Order or, if there is no

- description, the highest industry quality standards for their performance;
- (b) undertaken using all due skill and care and in a prompt, safe, conscientious and professional manner;
  - (c) provide the functionality and performance represented by the Vendor;
  - (d) be provided to EnergyAustralia free of any restrictive covenants imposed by any other party; and
  - (e) comply with all relevant laws, including where applicable:
    - (i) safety regulations and ordinances; and
    - (ii) any obligation to hold a licence under the *Labour Hire Licensing Act 2018* (Vic).
- 5.4 If, in the supply of the Goods or Services, the Goods are, or any property of EnergyAustralia or its employees, agents or contractors is, damaged, EnergyAustralia may, at its election (and without limitation to its other rights):
- (a) require the Vendor to repair or resupply the Goods at the Vendor's cost;
  - (b) require the Vendor to resupply the Services; or
  - (c) deduct from the Price the cost of having the Goods repaired or resupplied or the Services resupplied.
- 5.5 The Vendor must notify EnergyAustralia of any suspected or actual instances of modern slavery it becomes aware of in relation to the delivery of the Goods or provision of Services.
- 6. Payment terms and GST**
- 6.1 The amount payable for the Goods and/or Services by EnergyAustralia will be, subject to clause 6.2, the Price exclusive of GST. The Price includes all applicable taxes, duties, levies and charges.
- 6.2 EnergyAustralia must pay to the Vendor any amount which is payable by the Vendor on account of GST as a consequence of any supply made to EnergyAustralia under the Purchase Order.
- 6.3 Following receipt of a valid Tax Invoice under clause 6.4, but subject to clause 6.5, EnergyAustralia will pay the Vendor within the earlier of:
- (a) 60 days or, where you are a Small Business, 30 days, from the date the Tax Invoice is received by EnergyAustralia. This requirement applies if the payment terms in the Purchase Order specify "End of Next Month"; or
  - (b) such other period from the date on which the Tax Invoice is received as is specified on the Purchase Order. If zero is specified as the payment terms on the Purchase Order, this means that payment must be made as soon as reasonably practicable.
- 6.4 The Vendor must give to EnergyAustralia within 28 days of delivery or performance a Tax Invoice which:
- (a) is fully compliant with the GST Act; and
  - (b) states the Purchase Order number, full details of the Goods delivered or Services performed, the Price and any other information that EnergyAustralia may require.
- 6.5 Payment is subject to:
- (a) the Goods being supplied or the Services being performed in accordance with the requirements of the Purchase Order, including, in the case of Goods, that the Goods were delivered to the appropriate Delivery Location with all packaging clearly marked with the relevant Order number and marked to the attention of the appropriate EnergyAustralia person; and
  - (b) the invoice from the Vendor containing at least the following information:
    - (i) the relevant Purchase Order number (only one per invoice);
    - (ii) Vendor number as allocated by EnergyAustralia;
    - (iii) total invoice amount;
    - (iv) line number and item description as per the Purchase Order (if applicable);
    - (v) quantity delivered and unit price (if applicable);
    - (vi) extended amount per item (if applicable);
- (vii) delivery address, date of delivery and dispatch docket number (if applicable).
- 6.6 The Vendor may not vary the price of any Goods or Services without the prior written consent of EnergyAustralia.
- 7. Site**
- 7.1 To the extent that the provision of the Goods and/or Services will involve the Vendor's personnel being present on any site which is owned or operated by EnergyAustralia, the Vendor must ensure that such personnel complete any applicable induction requirements, and whilst on site comply with such site arrangements, as are advised by EnergyAustralia to the Vendor or such personnel.
- 7.2 The Vendor is deemed to be aware of the inherent dangers and risks in EnergyAustralia's activities, and accordingly the Vendor:
- (a) releases EnergyAustralia from all liability arising from or in connection with any injury or death of the Vendor's employees, agents or contractors on EnergyAustralia's premises (except to the extent such injury or death is the result of a negligent act or omission of EnergyAustralia or its employees or agents); and
  - (b) must insure itself fully in respect of all potential public liability claims.
- 7.3 For the avoidance of doubt, nothing in clause 7.2 is intended to exclude EnergyAustralia's liability resulting from fraud or fraudulent misrepresentation, or other wilful misconduct or unlawful conduct by EnergyAustralia.
- 8. Confidentiality**
- 8.1 If in the performance of these Conditions or otherwise, the Vendor obtains or becomes aware of any sensitive or confidential information relating to EnergyAustralia or its business, partners or customers ("Confidential Information"), the Vendor must not, without EnergyAustralia's prior written consent, disclose to any person the Confidential Information, except to those of its employees that are involved in the completion of a Purchase Order and then on a strictly confidential basis. The Vendor must immediately notify EnergyAustralia if it knows of, or suspects, any unauthorised disclosure of the Confidential Information. This obligation survives the satisfaction or termination of a Purchase Order.
- 8.2 The Vendor must not reproduce a Purchase Order or advertise or publish any details of a Purchase Order without EnergyAustralia's prior written consent.
- 9. Intellectual property**
- The Vendor assigns to EnergyAustralia ownership of all copyright and other intellectual property rights in and to all documents, drawings, maps, characters, images, photographs, artwork, blueprints, calculations, information and instructions prepared in connection with a Purchase Order.
- 10. No relationship**
- The Vendor is not an employee, agent or representative of EnergyAustralia and has no authority to act on behalf of EnergyAustralia.
- 11. Termination**
- 11.1 Without limiting EnergyAustralia's entitlement under clause 2.5, EnergyAustralia may terminate a Purchase Order (to the extent that the Purchase Order has not been fully satisfied), immediately on written notice to the Vendor if the EnergyAustralia Contact believes the Vendor has breached these Conditions.
- 11.2 Following such termination, the EnergyAustralia Contact will (acting reasonably) value any Goods and/or Services received to reevaluate the Price payable for such Goods and/or Services.
- 11.3 Notwithstanding the termination of any Purchase Order under this clause 11, the Vendor remains liable under these Conditions to EnergyAustralia in respect of any Goods or Services provided up to the time of termination.
- 12. Disputes**
- 12.1 Any dispute between the parties concerning a Purchase Order will be dealt with as follows:
- (a) EnergyAustralia must refer the dispute to its EnergyAustralia Contact and the Vendor must

- appoint an equivalent officer, who together must attempt to resolve the dispute;
- (b) if the dispute is not resolved within 3 weeks after such referral, the parties must refer the dispute to nominated senior representatives for resolution; and
  - (c) if the dispute is not resolved under clause 12.1(b) within 2 weeks, only then may the parties commence legal proceedings.
- 12.2 Nothing in this clause 12 prevents a party from seeking urgent injunctive relief or similar interim relief from a court.
- 13. Severance**  
If a provision of these Conditions is invalid or unenforceable, it is to be read down or severed to the extent of the invalidity or unenforceability and that fact will not affect the remaining provisions.
- 14. Governing law**
- (a) Subject to clause (b), a Purchase Order is to be interpreted according to the laws of Victoria and each party submits to the jurisdiction of the courts of that State.
  - (b) Where the Delivery Location is in NSW, a Purchase Order is to be interpreted according to the laws of NSW and each party submits to the jurisdiction of the courts of that State.
- 15. Assignment**  
Neither party may assign or novate its rights or obligations under a Purchase Order without the other party's prior written consent.
- 16. Construction**  
No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, a Purchase Order or any part of it.
- 17. Conflict of interest**
- 17.1 The Vendor and its representatives must:
- (a) exercise reasonable care and diligence to prevent any actions or conditions which could result in a conflict of interest that impairs their ability to act ethically; and
  - (b) not engage in any practice:
    - (i) involving collusion with competitors, secret commissions or any other misleading or deceptive practice; or
    - (ii) to give the Vendor an improper advantage over competitors,
 in connection with the Purchase Order.
- 17.2 The Vendor confirms that:
- (a) it is not a member of the CSG Group;
  - (b) it is not an associate of:
    - (i) the CSG Group; or
    - (ii) an entity controlled by the CSG group;
  - (c) it is not an entity controlled by the Kadoorie Family; and
  - (d) it is not an associate of:
    - (i) the Kadoorie Family
    - (ii) a member of the Kadoorie Family; or
    - (iii) an entity controlled by the Kadoorie Family.
- 17.3 In this clause 17:
- (a) **"associate"** has the meaning given to that term in Chapter 14A of the Listing Rules;
  - (b) **"CSG Group"** means China Southern Power Grid Co., Ltd. and its subsidiaries;
  - (c) **"Kadoorie Family"** includes the following individuals: The Honourable Sir Michael Kadoorie, Mr Phillip Kadoorie, Mr Ronald McAulay and their respective family members; and
  - (d) **"Listing Rules"** means the Rules Governing the Listing of Securities on the Hong Kong Stock Exchange.
- 18. Data Security**
- 18.1 The Vendor must:
- (a) comply with all Security Laws; and
  - (b) do all things necessary to assist, and refrain from doing anything that may impede, EnergyAustralia in complying with:
    - (i) its obligations under the Security Laws; or
    - (ii) any request, direction, or requirement of a Regulatory Authority under Security Laws, including the provision of information, documentation, data or other material (including relating to the performance of the Vendor's obligations under these Conditions).
- 18.2 The Vendor must:
- (a) actively monitor for Security Incidents in accordance with Good Security Practice;
  - (b) establish processes and procedures for managing Security Incidents, including the investigation, tracking, resolving, documenting and reporting of information relating to Security Incidents;
  - (c) within 24 hours of the occurrence of a Security Incident, notify EnergyAustralia about the occurrence of the Security Incident and, following that notification, provide EnergyAustralia with any information reasonably requested in relation to that Security Incident; and
  - (d) provide all reasonable assistance to EnergyAustralia at no additional cost to identify the cause of the Security Incident and promptly remediate the effects of any Security Incident on the Vendor's provision of Goods or Services or any EnergyAustralia system.