

Procos Energy Solutions cc

Company Registration Number: 2008/104134/23

VAT Registration Number: 4790249314

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STANDARD TERMS & CONDITIONS / AGREEMENT OF SALE AND/OR INSTALLATION

Applicable to all Transactions with Procos Energy Solutions CC

(as updated from time to time)

- The following terms and expressions used in this agreement shall bear the meanings assigned to them herein:

“Agreement”	Shall mean this agreement and any annexure or schedule hereto. All specifications, price lists, performance figures, advertisements, brochures and technical data furnished by Procos Energy Solutions CC in respect of the goods and/or services, whether orally or in writing, will not form part of this Agreement, unless specifically agreed to by Procos Energy Solutions CC in writing;
“Business Day”	Shall mean any day other than a Saturday or Sunday or public holiday in the Republic of South Africa;
“Customer”	Shall mean any person or juristic entity wishing to procure services and/or goods from Procos Energy Solutions CC;
“Procos Energy Solutions CC”	Legal entity registered under Company Registration Number 2008/104134/23.
- Unless the context clearly indicates a contrary intention, words connoting any gender shall include the other gender and words importing the singular shall include the plural and *vice versa*.
- When any number of days is prescribed, such number shall exclude the first day and include the last day, provided that if the last day falls on a day other than a Business Day, then the last day shall be the next succeeding Business Day. Any Reference to “Days” shall be deemed to be “Business Days”.
- These Standard Terms and Conditions become final and binding upon receipt of the signed Quotation/Proforma Invoice and/or Official Order. The issuing of a quotation/proforma invoice presents no obligation until Procos Energy Solutions CC accepts the customer’s official purchase order or signed quotation/proforma invoice. Payment of a deposit is seen as 100% acceptance of the quotation, even if the quotation document has not been signed by the client. Payment of 100% of the quotation/proforma invoice or trade invoice must reflect in our bank account before the goods are released/installed. No cheques are accepted. Card facilities are available. Refer to Clause 33 for banking details. Cash handling fees that a levied by banks for cash deposits into our account will be added to the total invoice amount. Any additional fees resultant for any cash deposit payment into our account will be charged to the client. Withholding of any payment due to delays on the building site, incorrect or faulty wiring and any other site related delay will not prevent the client from making full payment once our systems have been installed.
- Procos Energy Solutions CC shall retain ownership over all goods supplied by Procos Energy Solutions CC until such time as the purchase price has been paid in full.
- Procos Energy Solutions CC reserves the right, at its sole discretion, to provide alternative goods of the same quality and quantity at the prevailing prices to those ordered by the Customer should the

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- goods ordered be superseded, replaced or be unavailable.
8. All quotations/proforma invoices shall remain valid for a period of 7 (seven) days from the date of the quotation/proforma invoice and for existing stock only. All quotations/proforma invoices are subject to our payment terms.
 9. All quotations/proforma invoices are subject to the availability of the goods or services and subject to correction of good faith errors made by Procos Energy Solutions CC. Prices quoted are for current stock only and subject to change on new stock due to exchange rate fluctuations. The onus is on the Customer to confirm stock availability and pricing when ordering. Prices are exclusive of VAT (15%) and do not include delivery. As per the South African Revenue Services, VAT is payable on all invoices except on export where Procos Energy Solutions CC arranges the transport which will be charged to the client.
 10. If the Customer disputes any increase, then the amount of the increase may be certified by an independent auditor, which shall be final and binding on the Customer.
 11. The Customer confirms that the goods or services on any invoice issued by Procos Energy Solutions CC duly represent the goods and/or services ordered by the Customer at the prices agreed to by the Customer and, where delivery/performance has already taken place, that the goods or services were inspected and that the Customer is satisfied that the goods or services conform in all respects to the quality and quantity ordered and are free from any defects.
 12. The Customer agrees to pay all additional costs resulting from any acts or omissions by the Customer, including the suspension from work, modification or requirements, failure or delay to give what is required to enable work to proceed on schedule. Any item not specified is excluded from the quotation. Delivery, commissioning, call-out fees, installation and electrical work are excluded, unless specifically quoted for.
 13. Notwithstanding the above provisions, all orders or agreed variations to orders, whether oral or in writing, shall be subject to these conditions, and may not be cancelled unless agreed to in writing. Such cancellation will incur a minimum of 20% cancellation fee plus incurred costs. Transport fees can obviously not be refunded.
 14. Procos Energy Solutions CC shall, in its sole discretion, be entitled to split the delivery of goods or performance of services, and shall be entitled to invoice each delivery/performance separately.
 15. A delivery note, waybill or invoice signed by the Customer or third party engaged to transport the goods shall be *prima facie* proof that delivery was made to the Customer.
 16. If Procos Energy Solutions CC agrees to engage a third party to transport the goods, Procos Energy Solutions CC is hereby authorised to engage the third party on the Customer's behalf and on the terms deemed fit by Procos Energy Solutions CC. The Customer hereby indemnifies Procos Energy Solutions CC against any claim arising from such engagement.
 17. The risk of damage to, destruction or theft of goods shall pass to the Customer on delivery (see Clause 30), and the Customer undertakes to comprehensively insure the goods until paid for in full. In the event of the Customer failing to insure the goods adequately, Procos Energy Solutions CC, shall be entitled, but not obliged to insure the goods and recover the premiums payable from the Customer. Notwithstanding the foregoing, the Customer shall have no claim against Procos Energy Solutions CC in the event that Procos Energy Solutions CC does not insure the goods.
 18. Delivery, installation and performance times are merely estimates, and the Customer shall have no claim against Procos Energy Solutions CC should these be later than estimated.
 19. Repair times and repair costs given are merely estimates, and the Customer agrees to pay the actual repair costs incurred.
 20. Any item handed in for repair may be sold by Procos Energy Solutions CC to defray the cost of such repairs if the item remains uncollected within 30 days of the repairs being completed.
 21. The Customer undertakes not to infringe any copyright, or IP, in any of the goods or system designs undertaken by Procos Energy Solutions CC for the Customer. The system design is deemed to be valued at 50% of equipment cost and the Customer accepts responsibility for payment thereof should Procos Energy Solutions CC be used with third party products. In which case Procos Energy Solutions CC cannot accept responsibility for the system performance.
 22. The Customer further indemnifies Procos Energy Solutions CC against any claims, costs and expenses

- arising from any infringement of copyright, patent, trade mark or design supplied by the Customer.
23. It is the Customer's sole responsibility to determine that the goods and/or services ordered are suitable for the intended use. The Customer acknowledges that he/she does not rely on any representations made by Procos Energy Solutions CC in regard to the goods and services or any of its qualities. While Procos Energy Solutions CC provides advice regarding the usage of the goods supplied, the suitability of the goods for the use contemplated by the client is the sole responsibility of the client, and Procos Energy Solutions CC will in no way be responsible for the suitability of the goods sold for any particular end use.
24. Procos Energy Solutions CC does not guarantee the services supplied. New goods are guaranteed according to the manufacturer's product specific warranties only, and all other warranties or guarantees at Common Law or otherwise, are hereby specifically excluded.
- Due to the technical and complex nature of the renewable energy products and systems, the following apply to all standby, solar systems, solar hot water systems and solar pump systems which incorporate our products:
- a) If the product/s is/are purchased from Procos Energy Solutions CC but neither the system design or installation/commissioning was done by Procos Energy Solutions CC, the warranty only applies to the product supplied and not to the functioning of the system in which the product/s is/are used. There are no returns or warranties on product/s incorrectly sized, installed or damaged through incorrect system design.
 - b) If the product/s is/are purchased from Procos Energy Solutions CC, the system design was done by Procos Energy Solutions but the installation was not done by Procos Energy Solutions CC, the warranty only applies to the product/s supplied and not to the functioning of the system in which the product/s is/are used.
 - c) Procos Energy Solutions CC cannot guarantee the functioning or performance of a system if Procos Energy Solutions CC's product/s is/are not used and/or are mixed with other components not endorsed by Procos Energy Solutions CC.
 - d) Solar Water Pumps: If system performance changes and borehole information provided by the Customer was not accurate, the systems performance is not guaranteed. The design is based on information provided by the Customer. If the information is inaccurate the system will not function as designed by Procos Energy Solutions CC.
 - e) There is no warranty for lead acid (liquid filled AGM and gel types) batteries used for solar power storage purposes.
 - f) Lithium batteries used for solar power storage purposes which have integral battery management system (BMS), are covered by the manufacturer's warranty. Claims on these batteries are subject solely at the manufacturer's discretion.
25. The Warranty Statement for our pump and controller range is as follows:
 The pumps and controllers are warranted to be free from defects in materials and/or workmanship for a one-to-three-year period as defined below (depending on the model that was purchased):
 Failure to provide correct installation, operating conditions, or care for the products in accordance with the instruction manual will void this warranty.
 The pumps are designed for pumping clean water or low viscosity, non-aggressive, non-explosive liquids containing NO solid particles. Procos Energy Solutions CC is not responsible for the labour or other charges and expenses associated with the removal, transportation or re-installation of any defective product(s).
 The pump warranty does not cover damages caused or due to: the presence of sand or abrasive silts in the water source, salt water corrosion, mineral deposits, or electrolytic action, lightning, flooding or other act of nature, mishandling or other abusive conditions.
 Procos Energy Solutions CC makes no warranty, express or implied, and any implied warranty or merchantability/fitness for a particular purpose in excess of the foregoing warranty is hereby disclaimed by Procos Energy Solutions CC. Procos Energy Solutions CC also will not be liable for any consequential damages, losses or expenses arising in connection with the use of or inability to use goods provided by Procos Energy Solutions CC for any purpose whatsoever.
 Warranty will only pertain to purchased products. Replacement products do not carry any warranty.

Warranty will only be valid by presenting original invoice and a signed copy of the warranty application form should be sent to info@cedarsolar.com no later than 14 days after date of invoice. Application forms can be found on Cedar Solar website (www.cedar-solar.com) or at their offices. Procos Energy Solutions CC, it's members or staff members thereof cannot be held accountable for the damage or defective products due to incorrect/incomplete information provided by the client, or the direct result of loss due to tampering with the pump or controller by an unqualified person. The warranty is only valid for system purchases and does not warrant pump only purchases. By purchasing or agreeing to any quotation, it will be assumed that the customer has read through and agreed with the warranty statement.

26. Liability is limited to the cost of repair or replacement of faulty goods or the granting of a credit, which shall be at Procos Energy Solutions CC's sole discretion. The Customer agrees that Procos Energy Solutions CC shall not be responsible for any consequential damages, including but not limited to, loss of profits or any other liability.
27. No claim under these Standard Terms and Conditions shall arise unless the Customer has, within 3 (three) days of the defect arising, given Procos Energy Solutions CC written notice to rectify any defect within 30 (thirty) days. Any claim in terms of these Standard Terms and Conditions must be supported by the original invoice.
- 28.. The Customer shall return any defective goods to Procos Energy Solutions CC at the Customer's own cost and packed in the original or suitable packaging. All risk of the goods during the transportation and while the goods are being repaired shall remain with the Customer.
29. All guarantees shall become null and void should the goods be tampered with or should the goods be used or stored outside the Manufacturer's specifications.
30. Delivery of the goods or services to the Customer will take place at the business premises of Procos Energy Solutions CC.
31. The Customer agrees to accept any quantity that does not exceed or fall short of the quantity ordered by no more than 5% as good and complete performance and may request to pay Procos Energy Solutions CC only the proportionate contract price for the actual quantity dispatched, which request will not be unreasonably rejected.
32. The Customer agrees that the amount reflected on the invoice issued by Procos Energy Solutions CC shall be immediately due and payable prior to despatch/installation.
33. Payment shall be made without settlement discount, set-off, deductions and free of exchange into the following bank account of Procos Energy Solutions CC:

Account Holder:	Procos Energy Solutions CC
Bank:	Standard
Branch:	Lynnwood Ridge
Branch Code:	012445
Account Number:	01-333-9346
Reference:	Quotation/Proforma Invoice Number or Invoice Number
34. The Customer has no right to withhold payment for any reason and agrees that no extension of time to make payment shall be granted unless agreed to in writing by Procos Energy Solutions CC.
35. The Customer agrees that a certificate of balance signed by the member or manager of Procos Energy Solutions CC, whose status and appointment need not be proven, shall be *prima facie* proof of the amount owed to Procos Energy Solutions CC.
36. The Customer irrevocably authorises Procos Energy Solutions CC to enter its premises to repossess the goods delivered, and shall have no claim against Procos Energy Solutions CC for any damage caused by the removal of the goods.
37. In the event of cancellation of the Agreement, the Customer shall pay the difference between the selling price and the value of the goods at the time of repossession, and all other costs incurred by Procos Energy Solutions CC in recovering possession of the goods plus cancellation fees. The value of the goods shall be determined by a sworn appraiser appointed by Procos Energy Solutions CC. If the goods are not recovered by Procos Energy Solutions CC, the value shall be nil.
38. Procos Energy Solutions CC may cancel any order upon the happening of the following events, and Procos Energy Solutions CC shall be immediately released from any contractual damages and

penalties:

Acts of God, inability to secure labour and/or materials, war, riot or any civil disturbance, state of emergency, strike or lockout, or legislation.

39. The Customer hereby consents to the jurisdiction of the Magistrate's Court, notwithstanding the fact that the amount claimed by Procos Energy Solutions CC may exceed such Court's jurisdiction. Notwithstanding this, Procos Energy Solutions CC may, at its sole discretion institute action in the High Court of South Africa.
40. The Customer agrees to pay all legal costs, including the costs of demand, tracing fees, valuation fees and collection commission, on an attorney-client scale.
41. The Customer chooses its *domicilium citandi et executanti* for all purposes in terms of this Agreement at the physical address set out in this Agreement.

Any notice to a party:

Sent by prepaid registered post in a correctly addressed envelope to its *domicilium citandi et executandi* shall be deemed to have been received on the 4th (fourth) business day after posting (unless the contrary is proven); or

Delivered by hand to a responsible person during ordinary business hours at its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery (unless the contrary is proven); or

By fax or email shall be deemed to have been received the following day.

42. This is the entire Agreement between Procos Energy Solutions CC and the Customer, and neither party may rely on any representation, expressed or implied term, warranty or promise not recorded herein or reduced to in writing and signed by both parties. All individual equipment is carried by the original manufacturer's warranty. Failed equipment to be returned to Procos Energy Solutions CC by Client. Equipment will be returned to manufacturer for warranty claim. Manufacturer's assessment of damage and warranty validity will be final. Failures on site will not be honoured due to the possibility of damage during transportation and by third party installers.
43. No variation, addition to, deletion from or cancellation of this Agreement and no waiver of any rights under this Agreement shall be effective, unless reduced to in writing and signed by both parties.
44. No relaxation by a party of any of its rights in terms of this Agreement at any time shall prejudice or be a waiver of its rights and the other party shall not be precluded from exercising its rights against the other party which may have arisen in the past, or may arise in the future.
45. Any provision in this Agreement, which is or may become illegal, invalid or unenforceable, shall be treated as *pro non scripto* and shall be severed from the remainder of the Agreement without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.
46. These conditions are applicable to all business transactions with Procos Energy Solutions CC, whether signed or not and may be updated from time to time.
47. Distribution Board
All non-compliant and faulty electrical circuits, connections and appliances are not covered by the installation portion in our quotations. Our installation work on the client electrical distribution board covers separation of live and neutral wiring as per client instructions. However, should the installation contain split or borrowed neutrals and lives, the repair thereof is excluded from our original quotation and must be repaired by the client at his expense prior to connection to our system.
48. Certificate of Compliance
We reserve the right to request a valid electrical Certificate of Compliance prior to commencement of our installations on site.
49. Acceptance of the Quote
These Standard Terms and Conditions become final and binding upon receipt of the signed Quotation/Proforma Invoice and/or Official Order. The issuing of a quotation/proforma invoice presents no obligation until Procos Energy Solutions CC accepts the customer's official purchase order or signed quotation/proforma invoice. Payment of a deposit is seen as 100% acceptance of the quotation, even if the quotation document and this document have not been signed by the client.

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Payment of 100% of the quotation/proforma invoice or trade invoice must reflect in our bank account before the goods are released/installed. No cheques are accepted. Card facilities are available. Refer to Clause 33 for banking details. Cash handling fees that are levied by banks for cash deposits into our account will be added to the total invoice amount. Any additional fees resultant for any cash deposit payment into our account will be charged to the client.

50. Final Payment

Withholding of any payment due to delays on the building site, incorrect or faulty wiring and any other site related delay will not prevent the client from making full payment once our systems have been installed.

SIGNED AND ACCEPTED AT _____ ON THE _____ DAY OF _____ 20____.

WITNESS 1

FOR THE CUSTOMER
THE SIGNATORY BEING DULY AUTHORISED

PHYSICAL ADDRESS:

WITNESS 2

WITNESS 1

FOR PROCOS ENERGY SOLUTIONS CC
THE SIGNATORY BEING DULY AUTHORISED

WITNESS 2