

## Terms and Conditions of Sale - Australia

Please ensure you ("Purchaser") have familiarized yourself with these Terms and Conditions of Sale (the "Terms"). These Terms will apply to any sales orders ("Sales Orders") issued by Solaria Australia Pty Ltd (ABN 89637625766) ("Solaria") to Purchaser and not rejected by Purchaser in accordance with the Sales Order. These Terms, each Sales Order and Solaria's limited product warranty (the "Warranty") together form the agreement (the "Agreement") between Purchaser and Solaria that governs Purchaser's purchase of the products set forth in the Sales Order (the "Products"). The benefits conferred by the Agreement are in addition to all Consumer Guarantees and other rights and remedies prescribed by the Australian Consumer Law ("ACL").

### 1. SALES ORDERS

- (a) Purchase orders issued by Purchaser will not be binding on Solaria unless and solely to the extent accepted by Solaria through Solaria's issuance of a Sales Order. Solaria's Sales Order shall be deemed accepted by Purchaser unless expressly rejected in writing within five (5) business days of Solaria's issuance of the Sales Order.
- (b) Purchaser may modify or cancel a Sales Order only with Solaria's express written consent, and subject to a 10% fee if modified or canceled within 30 days of Solaria's issuance of the Sales Order, and subject to a 25% fee if modified or canceled more than 30 days after Solaria's issuance of the Sales Order. In no event may Purchaser modify or cancel a Sales Order within 30 days of: (i) the delivery date specified on the Sales Order; or (ii) any alternative delivery date mutually agreed to by Solaria and Purchaser in writing.
- (c) Information provided by Solaria constitutes an invitation to treat only. No information provided by Solaria constitutes an offer by Solaria to supply any Products and/or services to Purchaser; however, Solaria will endeavor to supply the selected Product and/or services to Purchaser.

### 2. SHIPMENT AND DELIVERY TERMS:

- (a) Solaria will use reasonable efforts to meet scheduled delivery dates set forth in the Sales Order, but does not guarantee delivery by such dates. In the event Solaria delivers the Product more than 10 business days after the

scheduled delivery date set forth in the Sales Order due to any causes within Solaria's control ("Late Delivery"), Solaria will pay to Purchaser, as liquidated damages, Solaria's only obligation and Purchaser's sole and exclusive remedy for such Late Delivery, an amount equal to one-tenth of one percent (0.1%) times the value of those Products delayed by the Late Delivery. Liquidated damages will accrue for each day any such Product is delayed due to a Late Delivery, up to a maximum of ten percent (10%) of the total value of the quantity of those Products delayed by the Late Delivery. Solaria shall not be liable for damages (except to the extent otherwise expressly set forth in this subsection (a)), expenses, costs or any other loss, nor shall Purchaser be relieved of its performance hereunder, arising out of or relating to any failure of Solaria to meet any scheduled delivery dates.

- (b) All deliveries shall be made EX WORKS (Incoterms 2020) Solaria manufacturing facility unless different terms are set forth in the applicable Sales Order. Solaria will employ standard packaging methodologies and package labeling unless otherwise specified and agreed in the Sales Order. Title and risk of loss for the Products shall pass to Purchaser upon delivery to the freight carrier at Solaria's manufacturing facility. Purchaser shall be responsible for all unloading costs and provide equipment and labor reasonably suited for receipt of the Products at the delivery point. All Products shall be deemed accepted upon delivery in accordance with this subsection.
- (c) Upon Purchaser's request and Solaria's agreement, Solaria shall provide on-site engineering support with respect to the Products. Such support will be priced separately and will consist solely of advice on matters of application and installation of the Product. Notwithstanding Solaria's provision of on-site engineering support, Solaria shall not be responsible or liable for the installation, maintenance or operation of the Products.

### 3. GST, PRICE AND PAYMENT TERMS:

- (a) Terms used in this Section 3(a) will have the same meanings given to them in A New Tax System (Goods and Services Tax) Act 1999 (Cth) ("GST Act"). Unless otherwise expressly stated, all prices or other sums payable in accordance with this Agreement are exclusive of GST. Purchaser must pay to Solaria an amount equal to the GST payable on or for the taxable supply subject to Purchaser

receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the GST amount will be made at the same time as payment for the taxable supply is required to be made.

- (b) Purchaser shall pay the price for the Products set forth on the Sales Order. All prices are based on the EX WORKS (Incoterms 2020) Solaria manufacturing facility unless different terms are set forth in the applicable Sales Order. All freight, insurance, tariffs, duties, taxes or other charges shall be borne by Purchaser unless different terms are set forth in the applicable Sales Order. The inclusion of sales tax, VAT or duties on the Sales Order does not relieve Purchaser of its obligations under this Section. Purchaser shall make all payments within 30 days of the date of Solaria's invoice. Purchaser shall pay two percent (2%) monthly interest on all late payments. Furthermore, if Purchaser is late with payments, then Solaria may, in its sole discretion, undertake any combination of the following: (a) stop all work under this Agreement and any other sales order between Solaria and Purchaser (and its affiliates) until assurances of payment satisfactory to Solaria are received or payment is received; or (b) delay shipments.

#### 4. SECURITY INTEREST:

- (a) Expressions used in this Section 4 have the same meanings as when used in the Personal Property Securities Act 2009 (Cth) ("PPSA").
- (b) Purchaser acknowledges that these Terms create a purchase money security interest in favour of Solaria for the purpose of the PPSA in all Products sold under a Sales Order hereunder and all proceeds therefrom, additions, and accessions thereto, until all charges therefor have been paid in full together with all costs and expenses related to such Sales Order or the enforcement of this security interest. Purchaser may add subsequent purchases to, and increase thereby the total payments due on the applicable Sales Order; and all Products previously purchased are security therefor. In the case of Product purchased on different dates, the item first purchased shall be deemed paid for first, unless otherwise agreed upon by Solaria and Purchaser; in the case of Product purchased on the same date, the lowest priced item shall be deemed paid for first, unless otherwise agreed upon by Solaria and Purchaser.
- (c) Solaria may register this security interest with the Registrar of Personal Property Securities pursuant to the PPSA in order to perfect its security interest.
- (d) If requested by Solaria, Purchaser must pay or reimburse the costs of registering the security interest, and provide

Solaria with all assistance reasonably required in order for Solaria to register the security interest.

- (e) For the purposes of section 115 of the PPSA, the following sections of the PPSA do not apply to these Terms: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) and 135.
- (f) Purchaser waives its right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to any security interest granted under these Terms in relation to commercial property.

#### 5. WARRANTY:

- (a) All warranties for the Products are set forth in the Warranty. The Warranty may run either to Purchaser or directly to Purchaser's customer and/or end user of the Products as permitted by the Warranty.
- (b) Purchaser will provide each of its customers who purchase Products from Purchaser with a copy of the Warranty. Purchaser is not authorized to make any warranties or other claims regarding the Products on Solaria's behalf.
- (c) Any Products provided free of charge for demonstration and testing purposes only, and not for resale ("Demo Products"), are provided to Purchaser on an "AS-IS" basis without warranty of any kind, whether express, implied, statutory or otherwise, and Purchaser assumes full responsibility for any use of Demo Products.
- (d) Solaria's Products and services come with guarantees that cannot be excluded under the ACL. For major failures with the services, Purchaser or Purchaser's customer is entitled to cancel the services with Solaria; and to a refund for the unused portion or to compensation for its reduced value. Purchaser or Purchaser's customer is also entitled to choose a refund or replacement for major failures with the Products. If a failure with the Products or a service does not amount to a major failure, Purchaser or Purchaser's customer is entitled to have the failure rectified in a reasonable time. If this is not done, Purchaser or Purchaser's customer is entitled to a refund for the Products and to cancel the contract for the service and obtain a refund of any unused portion. Purchaser or Purchaser's customer is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Products or service.
- (e) EXCEPT AS EXPRESSLY WARRANTED IN THE WARRANTY OR AS OTHERWISE REQUIRED UNDER THE ACL OR OTHER APPLICABLE LAW, THE PRODUCTS ARE PROVIDED "AS IS," AND THE USER ASSUMES ALL RESPONSIBILITY FOR USE THEREOF AT ITS OWN RISK. TO THE MAXIMUM EXTENT

PERMITTED UNDER THE ACL AND OTHER APPLICABLE LAW (1) SOLARIA DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE; AND (2) SOLARIA DOES NOT WARRANT THAT THE PRODUCTS WILL OPERATE WITHOUT INTERRUPTION OR WILL BE DEFECT-FREE, OR THAT THE PRODUCTS WILL MEET THE USER'S REQUIREMENTS.

## 6. RESPONSIBILITIES OF PURCHASER:

- (a) Purchaser represents, warrants and covenants that it will:
1. comply with all laws, regulations and ordinances applicable to its performance under this Agreement and the installation, operation, service and maintenance of Products wherever used, including without limitation the National Electric Code and locally prevailing electrical codes;
  2. not misrepresent the Products or disparage Solaria in any way;
  3. use all requisite skill and care when installing, operating, servicing and maintaining the Products in accordance with Solaria provided materials;
  4. not remove, alter or obfuscate any proprietary markings, serial numbers, certifications or other labeling on the Products; and
  5. use Demo Products only for demonstration, testing and marketing purposes. Purchaser will not resell, lease, license or transfer any Demo Product to any third party, including without limitation Purchaser's customers.
- (b) Purchaser acknowledges that all Solaria product and roadmap information, marketing, financial information, pricing, vendor related data, services, support, and other business information is proprietary and confidential to Solaria. Purchaser agrees (i) it will not use such information for any purpose other than as necessary to use the Products as contemplated by this Agreement, (ii) it will hold such information in strict confidence, and (iii) it will not disclose such information to any third party without Solaria's prior written consent.
- (c) Purchaser agrees to indemnify, defend and hold harmless Solaria, its affiliates, agents, directors, officers, employees and contractors from and against any and all claims,

damages, costs, expenses and liabilities arising out of or related to any breach, or alleged breach, of this Section 6.

## 7. LIMITATION OF LIABILITY:

TO THE MAXIMUM EXTENT PERMITTED UNDER THE ACL AND OTHER APPLICABLE LAW (A) IN NO EVENT SHALL SOLARIA'S LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT OR ANY USE OF THE PRODUCTS EXCEED THE AMOUNT PAID BY THE ORIGINAL PURCHASER FOR THE PRODUCT, AS EVIDENCED BY THE ORIGINAL INVOICE; AND (B) IN NO EVENT SHALL SOLARIA BE LIABLE TO PURCHASER, ITS CUSTOMERS, OR ANY THIRD PARTY FOR ANY LOSS OF PROFITS, SALES, BUSINESS, DATA OR OTHER INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER ARISING IN CONTRACT, TORT, NEGLIGENCE OR STRICT LIABILITY, EVEN IF SOLARIA HAS BEEN INFORMED OF, KNEW OF, OR SHOULD HAVE KNOWN OF THE LIKELIHOOD OF SUCH DAMAGES.

## 8. PROPRIETARY RIGHTS:

Although title to the physical Products shall pass to Purchaser as stated in these Terms, Solaria hereby retains all right, title and interest in and to all intellectual property embodied by the Products. All rights not expressly granted are hereby reserved by Solaria

## 9. FORCE MAJEURE:

Solaria shall not be liable for any delay in delivery, suspension or cancellation of performance or other failure of performance hereunder due to any causes beyond its control, even if such events or circumstances were foreseeable, including but not limited to acts of God or government, epidemics, pandemics, labor disputes or inability to secure materials, labor or transportation.

## 10. DISPUTE RESOLUTION:

- (a) Purchaser agrees to cooperate with Solaria in good faith to resolve any dispute which arises in connection with the Agreement.
- (b) If a dispute arises and the parties do not resolve it in accordance with sub-subsection 10(a), the dispute must be dealt with as follows:
1. a party asserting a dispute will give the other party a written notice identifying and providing details of the dispute ("Notice of Dispute");
  2. within seven days after receiving the Notice of Dispute, the parties must confer at least once to resolve the dispute;
  3. if the dispute is not resolved within 14 days, the dispute

must be referred to mediation administered by the Australian Commercial Disputes Centre (“ACDC”) and to be conducted in accordance with ACDC Mediation Guidelines; and

- 4. if there is no resolution of the matter, whether by mediation or otherwise, then either party may commence legal proceedings.
- (c) Solaria will not continue to supply the Products or services if there is a dispute on foot.
- (d) This Section 10 does not prevent either party from commencing legal proceedings for urgent interlocutory relief.

## 11. TERMINATION:

- (a) Solaria may terminate the Terms without notice if:
  - 1. Purchaser fails to co-operate with Solaria in relation to any aspect of the Terms;
  - 2. Purchaser is unable to pay any invoices owing to Solaria; or
  - 3. Purchaser fails to pay an invoice issued by Solaria within the payment terms outlined in Section 3 above.

## 12. GENERAL

- (a) The relationship of the parties established by this Agreement is that of independent contractors. Nothing contained in this Agreement should be construed to give either party the power to direct or control the day-to-day activities of the other. All financial and other obligations associated with each party’s business are the sole responsibility of that party.
- (b) This Agreement shall be governed by the laws of the Victoria, Australia. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.
- (c) Purchaser may not assign this Agreement, whether by merger, sale of assets, reorganisation or by operation of law, without the prior written consent of Solaria. Solaria may subcontract, delegate or assign some or all its rights and obligations under this Agreement. Any attempted assignment in violation of this Section will be null and void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns.
- (d) This Agreement constitutes the entire agreement between

the parties with respect to the Products and supersedes all prior agreements and understandings between the parties relating to such transactions. In the event of any conflict or inconsistency between the terms and conditions of these Terms and those set forth in the Sales Order and the Warranty, the order of precedence will be: (a) the terms of the Sales Order regarding the Products, the unit quantity, the price, shipping terms and payment terms; (b) the terms of the Warranty regarding Solaria’s limited product warranty; and (c) these Terms in all other respects. Any additional or different terms or conditions in a purchase order, acknowledgement form, invoice or other ordering document issued by Purchaser are expressly rejected by Solaria, shall not have any effect on the terms and conditions of this Agreement and will not become part of this Agreement. If Purchaser and Solaria execute a written purchase agreement, such purchase agreement shall be the controlling agreement in all respects.

- (e) The failure of either party to enforce any provision of this Agreement shall in no way be construed to be a present or future waiver of such provision, nor in any way affect the right of either party to enforce such provision thereafter. The express waiver by either party of any provision of this Agreement shall not constitute a waiver of the other party’s future obligation to comply with such provision or any other provision of this Agreement.
- (f) If the scope of any of the provisions of this Agreement is too broad to permit enforcement to its full extent, then such provisions shall be enforced to the maximum extent permitted by law, and the parties agree that such scope may be judicially modified accordingly and that the whole of such provisions of this Agreement shall not thereby fail, but that the scope of such provisions shall be curtailed only to the extent necessary to conform to the law.
- (g) Any notice required or permitted by this Agreement shall be deemed given if delivered by confirmed receipt email to the CEO or CFO of the receiving party.
- (h) To the extent Solaria collects any personal information, it shall do so in accordance with the Australian Privacy Principles.
- (i) The following provisions of this Agreement shall survive beyond the delivery of the Products: Sections 3 (Price and Payment Terms), 4 (Security Interest), 6 (Responsibilities of Purchaser), 7 (Limitation of Liability), 8 (Proprietary Rights), Dispute Resolution (10), and 12 (General).