



PRINCIPAL TERMS – SCHEDULE A

Supplier:

Hummingbird Group Limited is a duly incorporated company having its principal place of business at 18 Kilcooley Road, Flat Bush, Manukau City, Auckland ("**the Supplier**").

Customer:

Customer Name: _____
Physical Address: _____
Company Address: _____
Customer Number: _____ **Telephone:** _____ (Mob) _____ (Hm)
Email: _____ (the "**customer**", "**you**")

Guarantor(s):

Guarantor Name: _____
Physical Address: _____
Company Address: _____
Telephone: _____ (Mob) _____ (Hm)
Email: _____ (the "**guarantor/s**")

Insurance:

Insurer: _____
Type of Policy: _____ **Policy No:** _____
Cover Amount: _____ **Expiry:** _____

Customer Trade Details:

Customer Solicitor Details: _____

Customer Trade Reference: _____

Customer Trade Reference: _____

Customer Trade Reference: _____

Customer Bank Details: _____



Terms and Conditions

1. Supply and Distribution

The Customer agrees that the Supplier is only responsible for the distribution of the goods described in the first schedule (Schedule A) and not its installation. The Customer understands that the installation of the goods will be sub-contracted to an installer and the supplier will not be responsible for any damages to the goods caused by any reason whatsoever including a "Force Majeure" event once the goods have been installed by the sub-contractor.

2. Price

The supplier agrees that the total price for the goods supplied is the total price under the agreement and comprises of half payment of the deposit (where paid), interest charges, insurance charges and service charges. The customer undertakes, warrants and guarantees to pay the balance outstanding on the due date for payment.

3. Deposit

The customer agrees that in consideration of the supply of the goods by the supplier, it will on execution of this agreement pay the sum equivalent or more but not less than half the total price of the goods as partial payment for the goods.

4. Payment of Balance

The customer agrees that the payment of the balance outstanding under this contract will be paid in full on the due date specified in Schedule A of this contract.

5. Guarantor

The guarantor listed in Schedule A agrees to guarantee the balance of payment in full if not paid by the customer on the due date for payment including but not limited to any recovery costs incidental to an event of a default including legal costs. The guarantor understands that this is an irrevocable guarantee and the supplier can pursue the guarantor first for the outstanding balance without having to first pursue the customer. The guarantor acknowledges that he/she or it has been advised of its right to seek independent legal advice in respect of the guarantee.

6. Security Interest

6.1 The supplier has an interest in the property listed in Schedule A to secure performance of the customers obligations under the contract, the payment of money payable under the contract, or both. The customer agrees that if he, she or it fails to meet its obligations under the contract, then the supplier will be entitled to repossess

and sell its property to recover any balance outstanding under this contract including but not limited to any costs for recovery incidental to the repossession and sale of the property including legal costs.

6.2

If the sale of the property covers the whole liability of the customer then the balance from the net sale proceeds (if any) will be refunded to the customer. If the balance from the net sale proceeds is not sufficient to cover the whole liability of the customer then the customer will remain liable for any outstanding balance under this contract. The customer understands and agrees that the supplier will register a Personal Property and Securities charge over the property being first in priority which will be released on payment for the balance of the goods if paid by the due date.

7. Default

In the event of a default by the customer the supplier will be entitled to charge default interest at a rate of 10% per annum calculated from the day the default is raised by the supplier to the customer in writing. The default interest rate is in addition to the interest rate set out in Schedule A. If on demand by the supplier you fail to remedy the default within five (5) working days then the supplier will be entitled to charge default fees as follows:

Default Fees	-
\$ _____	default fee in respect of each default. This fee is payable on top of the outstanding payment for recovery of the default.
\$ _____	late payment fee, in respect of each payment if another method of payment has been agreed by the supplier.
% _____	disclosure fee in respect of each financial statement requested by the customer in relation to a default.
\$ _____	administration costs in respect of administration fees incurred by the supplier in relation to a default.

8. Cancellation

If the customer decides to cancel the contract after the "cooling-off" period, the customer must give written notice to the supplier within five (5) working days of its intention to cancel the contract. In the event of a cancellation any



deposit paid will be forfeited and retained by the supplier in full to compensate for any loss that the supplier has incurred in importing the supply of the goods to New Zealand including storage and holding costs. The customer acknowledges that if he, she or it cancels the contract once the supply of goods has been shipped from China, then in consideration of the costs incurred by the supplier in the shipment of goods and the cancellation and losses incurred, the supplier is entitled to retain all of the deposit paid by the customer in consideration of costs incurred and arising from the cancellation of the contract by the customer. The supplier is also entitled to sue the customer for specific performance of the contract.

9. Frustration of Contract

- 9.1 The customer agrees that in the event of a frustration of contract pursuant to the Contract and Commercial Law Act 2017, the frustration of contract will only apply to the extent that the contract has been frustrated by way of default by the supplier once the supplier has received the goods and has the goods in its possession. However, the contract will not be deemed to be frustrated by the supplier if through no fault of its own whether by way of force majeure, pandemic, epidemic, national or international restrictions imposed on China on trade, acts of sabotage, war, terrorism and/or any other event affecting the shipment of goods from China to New Zealand.
- 9.2 In the event the contract can be deemed to be frustrated by the supplier pursuant to clause 10.1 above, then the supplier will refund the deposit paid to the customer in full and without deduction.
- 9.3 The supplier and the customer will first endeavor to resolve any dispute by agreement and if they agree by way of mediation.
- 9.4 In the event that any dispute in relation to the contract including but not limited to a frustration of contract claim has not been resolved by agreement or through mediation within thirty (30) days of the dispute being raised by either the customer or the supplier, both parties agree that the dispute will be resolved by way of arbitration in accordance with the Arbitration Act 1996 or any other statutory provision relating to arbitration at that time.

- 9.5 If the parties are unable to agree on an arbitrator, an arbitrator shall be appointed, upon request of either party, by the president or vice president of the New Zealand Law Society. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal.

10. Title and Risk

The title to the goods will not pass to the customer until all monies payable by the customer under this contract has been paid in full including any default fees and the customer has fulfilled all of its obligations under this contract. However, the risk of the goods passes to the customer on execution of this contract. The customer agrees to indemnify the supplier against destruction or loss of goods (including legal forfeiture) and from all liabilities once possession of the goods has been passed to the customer.

11. Insurance

- 11.1 The supplier will at the supplier's expense effect and maintain insurance on execution of a supply agreement with the customer within ten (10) days of the supply agreement being executed by the customer and the supplier.
- 11.2 The supplier agrees that it will obtain a comprehensive insurance policy for full insurable value for the goods and will not change the insurance policy without the consent of the customer (such consent to be given in writing) and will not do any act to compromise or affect the insurance policy.
- 11.3 The customer agrees that as part of the purchase price of the goods it will contribute towards the insurance premium by way of partial contribution as outlined in Schedule A.

12. Cooling Off

The customer is entitled to a "cooling-off" period of five (5) working days from the date of execution of this contract. The supplier warrants that it will retain the deposit in full until this period has expired and if the customer decides to cancel the contract within this period, the supplier will refund the deposit in full and without deduction to the customer.

13. Order for Supply

The customer acknowledges that the supplier will place an order for the goods specified in Schedule A after the "cooling-off" pursuant to clause 12 of this contract has expired.

14. Right to Stop Goods in Transit

Where a customer becomes insolvent or unable to pay for the balance of the purchase price for



the goods after payment of the deposit during the period when the shipment has been released from China and within the period that it is in transit, then the manufacturer who has parted with possession of the goods has the right to stop the goods in transit. If the goods are stopped in transit where the customer becomes insolvent or unable to pay the balance of the purchase price for the goods, then the supplier is entitled to retain the full amount of the deposit and claim against the customer for damages in relation to its obligations with the manufacturer and any costs associated with the goods being stopped in transit, including but not limited to costs associated with the goods having being returned to the manufacturer. For the avoidance of doubt, in the event of the goods being stopped in transit and despite the goods being in international waters, New Zealand laws will apply in relation to a default or cancellation under this clause by the customer.

15. Existing or Future Goods

The customer acknowledges that the supplier will place an order for the goods following the expiry of the five (5) day cooling off period. The order once placed may be for existing goods pursuant to s 126 of the Contract and Commercial Law Act 2017 where there is ready supply or for future goods where the goods are yet to be manufactured. The supplier will try to endeavor to secure the order as soon as practicable following the expiry of the "cooling-off" period pursuant to clause 14 of this contract, however cannot guarantee that it will be able to secure the supply of existing goods on order since this is incumbent on the supply capacity of the manufacturer and beyond the control of the supplier.

16. Stipulations about Time

The customer and the supplier agree that notwithstanding the provisions of s 131 of the Contract and Commercial Law Act 2017, the time for the payment of the balance of the purchase price is an essence to this supply contract.

17. Repudiation of Contract

The supplier will be entitled to cancel the contract if, by words or conduct, the customer repudiates the contract by making it clear that it does not intend to perform its obligations under the contract and/or the performance of its obligations. In the event of a repudiation of contract by the customer, the supplier will be entitled to claim against the customer for breach and repudiation of contract.

18. Inspection of Goods

The customer will have right of inspection pursuant to s 169 of the Contract and Commercial Law Act 2017 so that the customer

has a reasonable opportunity to inspect the goods following delivery of the goods to the customer's specified address for delivery but prior to installation of the goods. If any defects are found by the customer on the delivery date, the customer will notify the supplier of the defect(s) and the supplier will be required to remedy the defect and/or arrange for a suitable replacement of the goods within a reasonable timeframe where the defects are caused by or a result or consequence of handling of the goods by the supplier.

19. Fit for Purpose

The supplier warrants that the goods supplied to the customer are reasonably fit for purpose as defined in s 138 of the Contract and Commercial Law Act 2017 and if the goods are deemed not to be fit for purpose, then the customer shall have the right to pursue remedies against the supplier under s 195 of the Contract and Commercial Law Act 2017. The liability of the supplier will only extend from the period following the transit, clearance and possession of the goods by the supplier. For clarity, the liability of the supplier under this clause only applies from the date the supplier is in possession of the cleared goods and to the date the customer receives and accepts delivery of the goods.

20. Claim for Price

The supplier will have a claim for price against the customer where the property in the goods has been passed to the customer but the customer neglects or refuses to pay for the goods in accordance with the terms under this contract.

21. Damages for Non-Acceptance

The supplier will have a right to claim damages for non-acceptance of goods if the customer wrongfully or willfully neglects or refuses to accept and pay for the goods. The measure of damages will be determined in relation to the difference between the contract price, market price or the current price for the goods.

22. Damages for Non-Delivery

The customer will have a right against the supplier for a claim against non-delivery if the supplier wrongfully or willfully neglects or refuses to deliver the goods to the customer. However, the right to claim against the supplier for non-delivery of goods does not extend to a manufacturing, supply or a force majeure event beyond the control of the supplier.

23. Contract to Take Precedence

Where there is a conflict or a contrary intention or interpretation under the Contract and Commercial Law Act 2017, the parties agree that the terms and conditions of this contract will take precedence.

24. Interpretation

Arbitration	-	Has the meaning given to it under the Arbitration Act 1996.
Balance	-	The total price outstanding after payment of the deposit on the due date as specified in Schedule A.
Cancellation	-	Cancellation of the contract by the Customer after expiry of the "cooling-off" period.
Cooling-Off Period	-	Means the period of five (5) days where the customer following execution of this contract can turn his, her or its mind to the contract and cancel the contract without penalty.
Customer	-	You as the individual or entity placing an order for the supply of goods.
Default	-	The failure of the customer to fulfill any of its obligations under the contract and more particularly failure of his, her or its obligation to pay the deposit or the balance of the purchase price on the due date.
Deposit	-	Partial payment of the total price immediately payable on execution of this contract by the customer.
Existing Goods	-	Goods which have been already manufactured and are ready to be shipped by the manufacturer.
Fit for Purpose	-	Has the meaning given to it under s 138 of the Contract and Commercial Law Act 2017.
Force Majeure	-	Means an act beyond the reasonable control of either party through no fault of their own such as a pandemic, epidemic, national or international restrictions on trade, sabotage, war, terrorism and/or any other adverse events affecting the trade supply of the goods with such event(s) only applying where the supplier has the goods in its possession.
Frustration of Contract	-	The meaning given to it under the Contract and Commercial Law Act 2017.
Future Goods	-	Goods which are yet to be made by the manufacturer and which are yet to be shipped and as more particularly defined under s 126(1) of the Contract and Commercial Law Act 2017.
Goods	-	Solar systems and its components, converters, micro-inverters, mono-panels, poly-panels, batteries and storage for the distribution and generation of electricity.
Guarantor	-	The person or entity who or which has agreed to pay for the outstanding balance in the event the customer is unable or unwilling to pay or fulfill its obligations under this contract in full.
Insurance	-	An arrangement by which an insurance company undertakes to provide a guarantee to compensate for specified loss or damages in consideration of a specified premium. complete the installation of the goods.
Inspection of Goods	-	Has its ordinary meaning and confers the right to the customer to inspect the goods prior to accepting delivery.
Interest Rate	-	The total interest rate charged by the supplier for the supply of the goods owed to the supplier by the customer and paid for in full after the five (5) day "cooling-off" period has expired.
Price	-	The total price payable by the customer for the for the supply of goods.
Partial Payment	-	A one-half (1/2) payment of the total price.
Possession	-	Means the person or entity who has possession of the goods but does not equate to ownership of the goods but mere possession.



Price	-	Has the meaning given to it under s 120 of the Contract and Commercial Law Act 2017 and means the full price under this contract for the supply of goods.
Repudiation of Contract	-	Has the meaning given to it under s 36 of the Contract and Commercial Law Act 2017.
Right to Claim	-	Has the meaning given to it under s 119 of the Contract and Commercial Law Act 2017.
Security Interest	-	The registered security interest secured by the supplier against the property of the customer listed in Schedule A by way of a Personal Property and Securities Register charge or otherwise.
Supplier	-	Hummingbird Group Limited.
Title	-	Means absolute ownership of the goods.
Transit	-	The carriage of goods and the passage of time between the release of goods by the manufacturer and the receipt of goods by the supplier.

Signed:

 Hummingbird Group Limited
 [By its director – Anthony Dengli]

 Hummingbird Group Limited
 [By its director – Xin Gao]

[By _____]

Guarantor Acknowledgement:

The guarantor acknowledges that:

- (a) He, she, or it has read this contract and understands the conditions and terms which applies to he, she, or it as the guarantor; and
- (b) The supplier has recommended that the guarantor obtain independent legal advice in relation to the guarantee provided by the guarantor. The guarantor warrants that he, she or it has:
 - (i) had been advised of its opportunity to seek independent legal advice;
 - (ii) has had independent legal advice; or
 - (iii) has not had independent legal advice prior to execution of this contract and that the guarantor acknowledges that despite the advice of the supplier to seek independent legal advice in relation to the obligations under the guarantee, the guarantor willingly and deliberately chooses to forego its right to seek independent legal advice and hereby irrevocably waives any rights it may otherwise have had against the supplier.

Signed:

Name:

[Guarantor]