

# Energy Makeovers VEEC Partnerships Full Service Terms and Conditions

## Energy Makeovers' Consumer Terms & Conditions

### 1. Definitions:

- 1.1. Energy Makeovers shall mean Energy Makeovers Pty. Ltd. ABN 77 131 681 859, its successors and assigns or any person acting on behalf of and with the authority of Energy Makeovers Pty. Ltd.
- 1.2. Customer shall mean the person or persons (or any person acting on behalf and with the authority of the customer) who agree to the contract or as described on any quotation, invoice, or any other form as provided from Energy Makeovers to the customer.
- 1.3 End user shall mean the person or persons (or any person acting on behalf and with the authority of the end user) who receives the energy saving benefit.
- 1.4. Goods shall mean all Goods supplied by Energy Makeovers to the customer including systems (and where the context so permits shall include any supply of Services as hereinafter described) and are as described on the invoices, quotation or any other form as provided from Energy Makeovers to the customer.
- 1.5. Services shall mean all Services supplied by Energy Makeovers to the customer (and where the context so permits shall include any supply of Goods as defined above) and are as described on the invoices, quotation or any other form as provided from Energy Makeovers to the customer including installation of goods
- 1.6. Installation shall mean installation of the goods supplied
- 1.7. Party shall mean either party to an Agreement for the supply and/or installation of Goods and/ or Services
- 1.8. Certificates shall mean any certificate created under a White Certificate scheme wherever so operating in Australia, including but not limited to the Victorian Energy Efficiency Target scheme (VEET), the Energy Saving Scheme (ESS), the Residential Energy Efficiency Scheme (REES) and the Energy Efficiency Improvement Scheme (EEIS)
- 1.9. Price shall mean the Price payable for the Goods and/or Services as agreed between Energy Makeovers and the customers in accordance with clause 3 of this Agreement
- 1.10. Agreement shall mean acceptance by the customer of a quotation or invoice for the supply and/or installation of Goods and/or Services by Energy Makeovers or where no quotation or invoice is issued or accepted, the signing of an Energy Makeovers assignment form either on an iPad or on paper. This acceptance may be communicated verbally, in writing (including email), by signing an order form, by signing an Energy Makeovers assignment form or paying a deposit to Energy Makeovers.

### 2. Acceptance

- 2.1. Any instruction received by Energy Makeovers from the customer for the supply of Services and/or

the Customer's acceptance of the Services supplied shall constitute acceptance of the terms and conditions contained herein.

2.2. Where more than one Customer has entered into the agreement, the Customer shall be jointly and severally liable for all payments of the Price.

2.3. Upon acceptance of these terms and conditions by the Customer, the terms and conditions are binding and can only be amended with the written consent of Energy Makeovers.

### 3. Price and Payment

3.1. The Price refers to the amount as indicated on the invoice(s) provided by Energy Makeovers to the Customer in respect of Services supplied or installed.

3.2. Payment terms are payment on receipt of the registered certificates into Energy Makeovers certificate registry account or as otherwise stated on the Invoice provided by Energy Makeovers to the Customer in respect of Services supplied..

3.3. Energy Makeovers reserves the right to cancel an Agreement or suspend delivery of outstanding services if agreed payment is not received by the due date. . If there is a default in payment or breach any of the Agreement the customer will be liable for all costs incurred by Energy Makeovers to recover the monies owed.

3.4. Where proceeds from certificate creation has been paid to a customer incorrectly or is subsequently deemed an invalid claim as determined by Energy Makeovers Pty Ltd, Energy Makeovers Pty Ltd will debit the amount paid against the customer's account unless other arrangements are agreed between the parties. This includes where the Regulator deems post installation that the products installed are not valid under the scheme. This will be the case even if they are included in the approved product list at the time of installation. Each and every customer will be responsible for repaying the amount overpaid within 28 days. The amount owing may be off set against any future payment, if expressly agreed with Energy Makeovers Pty Ltd in writing3.5. Energy Makeovers may provide services by separate instalments. Each separate instalment may be invoiced separately if expressly agreed between Energy Makeovers and Customer and shall be paid in accordance with the provisions in these terms and conditions and other terms and conditions as may be expressly agreed between Energy Makeovers and Customer.

3.6. Energy Makeovers shall not be liable for any loss or damage whatsoever due to failure by Energy Makeovers to provide services promptly or at all, due to circumstances beyond the control of Energy Makeovers.

3.6. GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

### 3.7. 4. Assignment of Certificates

4.1. Where applicable, the provision of Goods and services by the customers requires the client to assign/nominate all Certificates created by the installation, including but not limited to those created under the Victorian Energy Efficiency Target (VEET), the Energy Saving Scheme (ESS), the Residential

Energy Efficiency Scheme (REES) and/or the Energy Efficiency Improvement Scheme (EEIS) or any similar White Certificate scheme that are attributable to the provision of the Goods and services by the customer by signing an assignment form or similar document as may be required under the particular Scheme.

4.2. Energy Makeovers will pass on an identifiable benefit to a customer whose client completes the relevant assignment/nomination form.

4.3. If a client does not sign over all associated Certificates under any white certificate scheme including those referred to in Clause 4.1 above, the customer's invoice will be amended accordingly. In circumstances where the identifiable benefit is not more than the complete cost of the Goods and Services, Energy Makeovers reserves the right to charge the customer for the Goods and Services supplied. This cost will be determined in accordance with the market value of the Certificates.

#### 5. Subcontracted Work

5.1. Energy Makeovers reserves the right to subcontract all or part of the service as it sees fit.

#### 6. Warranties under Australian Consumer Law

6.1. The protections and Consumer Guarantees provided for under Australian Consumer Law shall not be excluded or limited. These terms and conditions, and in particular the limitations of liability set out in these terms and conditions, are therefore subject to and will not apply to the extent that they limit or exclude such protections and Consumer Guarantees applicable to consumers.

6.2. However, where the Australian Consumer Law permits Energy Makeovers to limit the remedies available to it in respect of the Customer for a breach of a Consumer Guarantee, Energy Makeovers limits its remedies to the Customer, at Energy Makeover's option, to supplying the services again or paying the cost of having the services supplied again.

6.3. Subject to clauses 6.1 and 6.2 Energy Makeovers excludes, to the extent permitted by law:

6.3.1. any term, condition, warranty or statutory right that may otherwise be implied or apply to the provision of the services by operation of custom, law or statute;

6.3.2. any liability for loss or damage incurred by the Customer as a result of or in connection with these Terms and Conditions or the negligence of Energy Makeovers;

6.3.3. any liability for legal costs and disbursements and, without limitation, any consequential loss suffered by the Customer under or in connection with these Terms and Conditions.

#### 7. Force Majeure

7.1. A Force Majeure Event does not excuse a failure to pay. If a Force Majeure Event prevents Energy Makeovers from partially or wholly complying with obligations under the Agreement then Energy Makeovers shall not be obliged to perform those obligations until it is no longer prevented from doing so and Energy Makeovers shall be granted an extension of time accordingly. If Energy Makeovers are prevented by the Force Majeure Event from carrying out such obligations for more than 6 months, either Party may terminate the Agreement with immediate effect by giving notice to the other Party.

7.2. If a Party terminates the Agreement under this clause, the rights and obligations of the Parties will cease; and the accrued rights or remedies of a party will not be affected. Then the Customer shall pay Energy Makeovers:

7.2.1. amounts due to Energy Makeovers for work carried out under the Agreement; and

7.2.2. the cost of materials reasonably ordered by Energy Makeovers for the work under the Agreement which Energy Makeovers are liable to accept.

## 8. General

8.1. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

8.2. These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria and are subject to the jurisdiction of the courts of Victoria.

8.3. Energy Makeovers shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Energy Makeovers of these terms and conditions.

8.4. The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Energy Makeovers nor to withhold payment of any invoice because part of that invoice is in dispute.

8.5. The Customer agrees that Energy Makeovers may review these terms and conditions at any time.

8.6. Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

8.7. The failure by Energy Makeovers to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Energy Makeovers' right to subsequently enforce that provision.