



TERMS AND CONDITIONS FOR ACQUIRING OUR PRODUCTS AND/OR SERVICES

Last Updated: 7/12/2022

In these terms, we refer to Revcharge Australia Pty Ltd ABN 46 660 974 649 as “**Revcharge**”, “**our**”, “**we**”, or “**us**”.

And you are, or the company you represent, is “the **Client**” or “**you**”!

What are these terms about?

We are an end-to-end electric vehicle charging service provider for residential properties, as further described on our website at <https://www.revcharge.com.au/> (or any other site operated by us in connection with the Products and Services) (**Website**).

These terms and conditions (**Terms**), together with any Quote (as defined below), sets out the agreement (**Agreement**) under which we will provide the products (**Products**) and perform the services (**Services**) set out in the Quote for you.

We'll refer collectively to the Services and Products as your “**Project**”, meaning the entire scope of work set out in the Quote.

Capitalised words and phrases used in these terms have the meaning given by the words immediately preceding any bolded and bracketed word(s) or phrase(s) or are otherwise defined in clause 24.

Acceptance of our Terms

By accepting a Quote, or ordering, accepting or paying for any Products and/or Services provided by us after receiving or becoming aware of these Terms or this Agreement, **you acknowledge and agree that you have read and agree to be bound by these Terms which forms a binding contractual agreement with us, and you will be taken to have accepted this Agreement.**

Please don't proceed with agreeing to your Project before reviewing the Agreement in full and confirming the scope of work is suitable for your purposes and desired outcomes.

Changes to our Terms

Please note that we may change any part of these Terms at any time by updating this page of this Website, so you may find that different terms apply next time you use this Website or request and receive Services. You can check the date at the top of this page to see when we last updated these Terms.

1. THESE TERMS

- (a) These Terms will apply to all the Client's dealings with Revcharge, including being incorporated in all Quotes, agreements or orders under which Revcharge is to provide Products and/or Services to the Client.
- (b) In the event of any inconsistency between these Client Terms and any Client Form, the clauses of these Client Terms will prevail to the extent of such inconsistency, except that any “Special Conditions” (being terms described as such in a Client Form) will prevail over these Client Terms to the extent of any inconsistency.

2. REQUESTING A QUOTE

- (a) To request a quote for Services from us, you must submit the “Get Quote” form on our Website here: <https://www.revcharge.com.au/request-a-quote> (**Quote Form**).
- (b) If you submit the Quote Form under clause 2(a), you may be required to provide personal information and other details, such as your first and last name, email address, physical address, mobile phone number, details of the vehicle for which you will use the Product (**Vehicle**) and details and photos of the residential premises at which you wish to install the Product (**Premises**) (including desired charging location and your switchboard), and other information as determined by Revcharge from time to time.

- (c) Once we have received your request under clause 2(a), we may contact you by email, phone or text message (using the information you have provided) if we need further information from you.
- (d) We will then send you the formal Project details and quote (**Quote**). You are responsible for confirming that the Quote accurately specifies (if applicable):
 - (i) the quantity and specifications of the Products and/or Services required; and
 - (ii) the agreed Fees and other rates,
 and you will be asked to confirm your Quote.
- (e) Once you confirm your Quote under clause 2(d), we will then issue you an invoice for costs reflecting the Fees set out in that Quote (**Invoice**). You will be asked to pay the Invoice before we perform the Services.
- (f) Once you pay the Invoice, one of our personnel will then reach out to you to agree with you on the date for installation (**Installation Date**) at your Premises.

3. **PRODUCTS AND SERVICES**

- (a) In consideration for the payment of the Fees, Revcharge will provide the Client with Products and/or Services set out in a Quote.
- (b) Where the context permits the terms 'Products' and 'Services' shall be interchangeable when used in this Agreement.
- (c) Unless otherwise agreed, Revcharge may, in its discretion:
 - (i) not commence work on any Products or Services until the Client has paid any Fees payable in respect of such Products or Services; and
 - (ii) withhold delivery of Services until the Client has paid the Invoice in respect of such Products and/or Services.

4. **CHANGES IN SCOPE**

- (a) The Client must pay a 'change in scope fee', in an amount reasonably determined by Revcharge (**Change Fee**), for changes to a Project which alter the scope set out in the Quote and require Revcharge to perform additional work or incur additional costs (**Changes**).
- (b) Unless otherwise agreed in writing, Revcharge may at its discretion extend or modify any delivery schedule or deadlines for the Project as may be reasonably required by such Changes.

5. **CLIENT OBLIGATIONS AND ACKNOWLEDGEMENTS**

- (a) (**General**) The Client must provide Revcharge with all documentation, information and assistance reasonably required for Revcharge to perform the Services.
- (b) (**Liaison**) The Client agrees to liaise with Revcharge as Revcharge reasonably requests for the purpose of enabling Revcharge to provide the Services.
- (c) (**Ownership**) The Client warrants that it is the owner of the Premises or has obtained authority from the owner/s of the Premises for the Services to be performed on the Premises.
- (d) (**Access to Premises**) The Client agrees to provide Revcharge with access to the Premises and the Client's personnel, to the extent reasonably required by Revcharge to perform the Services.
- (e) (**Permits**) The Client warrants that they hold valid licences and consents from third parties (including consents from any body corporate that manages their Premises) or are otherwise permitted to own and use the Products, and to have the Products installed at the Premises (**Permits**). Revcharge reserves the right to request proof of such Permits, cancel any Quote in the absence of such Permits and charge administration fees if orders are placed for Products where the Client does not hold such Permits.

- (f) **(WH&S)** The Client must ensure that the Premises complies with Work Health and Safety standards and is otherwise in a suitable condition for Revcharge personnel to perform the Services.
- (g) **(Disclaimer)** The Client acknowledges and agrees that Products are provided on an “as is” basis, and Revcharge accepts no liability for the visual presentation or noise levels of any Products provided to the Client.

6. **CLIENT SUPPLIED GOODS AND EXISTING CONSTRUCTION**

If in performing the Services, Revcharge is required to use any materials and/or goods supplied by the Client:

- (a) the Client accepts the risk of defects or deficiencies in such goods and/or materials;
- (b) Revcharge will not be required to investigate the suitability, quality or fitness for purpose of existing or proposed materials and/or goods;
- (c) if the Client requests that Revcharge correct any defects or issues with such materials and/or goods, such correction will be revised as a Change in accordance with clause 4 and the Client will be required to pay a Change Fee.

7. **PAYMENT**

7.1. **FEES**

The Client must pay to Revcharge fees in the amounts and at the times set out in a Quote or as otherwise agreed in writing.

7.2. **INVOICES**

Unless otherwise agreed:

- (a) if Revcharge issues an invoice to the Client, payment must be made by the time(s) specified in such invoice; and
- (b) in all other circumstances, the Client must pay for all goods and services within 1 week of receiving an invoice for amounts payable.

7.3. **PAYMENT METHOD**

The Client must pay Fees using the fee payment method specified in the Invoice.

7.4. **GST**

Unless otherwise indicated, amounts stated in an invoice include GST. However, if amounts stated on an invoice do not include GST, the Client must pay the GST in relation to any GST payable for a taxable supply by Revcharge, subject to Revcharge providing a tax invoice.

7.5. **CARD SURCHARGES**

Revcharge reserves the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard or American Express).

7.6. **LATE PAYMENT AND DEBT RECOVERY**

If the Client does not pay an amount due under this Agreement on or before the date that it is due:

- (a) the Client must pay Revcharge interest at the rate of 10% per month on the amount due, calculated daily;
- (b) Revcharge may seek to recover the amount due by referring the matter to debt collectors;
- (c) the Client must reimburse Revcharge for any costs it incurs, including any legal costs, in recovering the amount due or enforcing any of its rights under these terms; and
- (d) the Client authorises Revcharge, its employees and agents to enter any premises occupied by the Client or any other place where Products are located and use reasonable force to retake possession of the Products without liability for trespass or any reasonable damage.

7.7. PAYMENT PROVIDERS

We may use third-party payment providers (**Payment Providers**) to collect payments for Products. The processing of payments by the Payment Provider will be, in addition to these terms, subject to the terms, conditions and privacy policies of the Payment Provider and we are not liable for the security or performance of the Payment Provider. We reserve the right to correct, or to instruct our Payment Provider to correct, any errors or mistakes in collecting your payment.

8. PRICING

- (a) Prices on Revcharge's Website are:
 - (i) in Australian Dollars; and
 - (ii) indicative only, and Fees set out in a Quote or Invoice may differ depending on your installation requirements and the nature of your Vehicle and Premises; and
 - (iii) subject to change prior to you accepting a Quote without notice.
- (b) The Client acknowledges that despite Revcharge's reasonable precautions, Products may be listed on the Website at an incorrect price, or with incorrect availability and/or other information, due to typographical errors and/or oversight. In such circumstances, Revcharge reserves the right to substitute the Products with a comparative product, if agreed by the Client or cancel a Project, even if the Project has been paid for and a Quote in respect of that Project has been previously accepted by Revcharge.
- (c) If Revcharge cancels a Project in accordance with clause 8(b), Revcharge will, as soon as practicable, contact the Client and issue a refund for any payment the Client has made for the cancelled order.
- (d) Revcharge will endeavour to make any refund under this clause using the same payment method as the payment method used by the Client during the original purchase, however may vary this method at its discretion.

9. PRODUCT INFORMATION

Revcharge endeavours to ensure that the descriptions and specifications in relation to the Products on its Website or in catalogues are accurate. However, photographs, drawings, illustrations, weights, dimensions and any other particulars accompanying, associated with or given in a quotation, descriptive literature or a catalogue are based on information provided by manufacturers and suppliers and, as such Revcharge does not guarantee that those descriptions and specification are accurate or free from errors or omissions, except to the extent required by applicable law. Revcharge reserves the right to make any necessary corrections to the descriptions or specifications without notice.

10. INSTALLATIONS

10.1. INSTALLATION DATES

Revcharge (or its personnel) will be entitled to change the Installation Date:

- (a) by giving the Client 3 days' notice; or
- (b) on the Installation Date, if weather conditions, lack of access or other circumstances beyond Revcharge's control, do not permit the Services to be carried out.

10.2. TIMEFRAMES

- (a) The Client acknowledges and agrees that the Installation Date, or any other timeframes or schedules for delivery of Products and Services (**Timeframes**) in the Quote are indicative only and are included as a guide for when the Products and Services are expected to be delivered.
- (b) Revcharge may, due to various reasons beyond its control, need to make reasonable adjustments to Timeframes, including where weather does not provide suitable circumstance to perform the Services. Clause 4 will apply to any such delays.

10.3. INSTALLATION REQUIREMENTS

On the Installation Date, the Client must:

- (a) be present at the Premises and, if reasonably requested by Revcharge, remain there while the whole of the installation, or parts of the installation (eg commissioning) are being carried out;
- (b) provide access to all personnel, equipment and vehicles reasonably required to carry out the installation;
- (c) ensure that the Premises is clean and ready for Revcharge to carry out the Services; and
- (d) if the Client is not at the Premises on the Installation Date and/or the Premises is not clean and ready, Revcharge will be entitled to charge the Client a call-out fee for each member of Revcharge's personnel who were booked to attend the Premises.

10.4. DAMAGE

- (a) The Client acknowledges the installation might cause minor damage to the Premises. Where such damage occurs, Revcharge will use its best endeavours to repair the damage however will not be liable for any minor damage or for damage arising out of any pre-existing conditions of the Premises.
- (b) Where the Client incurs costs repairing any damage to the Premises occasioned during the installation, whether by employing third parties to conduct repairs or otherwise, Revcharge will not be liable for such costs, unless Revcharge agrees to remedy such damage in advance in writing.

11. TITLE AND RISK

- (a) Until the price of Products is paid in full, title in those Products is retained by Revcharge.
- (b) Risk in the Products will pass to the Client on delivery or on completion of purchase (whichever is earlier).
- (c) If the Client fails to book in an Installation Date or otherwise take the Products after the Client has completed the purchase, Revcharge may, at its option, keep or resell the Products provided that Revcharge provides the Client with a full refund (excluding any credit card surcharges or other transaction fees).

12. WARRANTIES

12.1. CONSUMER GUARANTEES

- (a) Our Products and Services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Service, you are entitled:
 - (i) to cancel your Service contract with us; and
 - (ii) to a refund for the unused portion, or to compensation for its reduced value.
- (b) You are also entitled to choose a refund or replacement for major failures with Products.
- (c) If a failure with our Products or Services does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the Products and to cancel this Agreement for the Service and obtain a refund of any unused portion.
- (d) You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Products or Services.

12.2. ADDITIONAL WARRANTIES

In addition to the consumer guarantees described under clause 12.1, the Client will be entitled to:

- (a) in respect of any Service, a limited workmanship warranty provided by Revcharge on the terms set out in clause 12.3 (**Workmanship Warranty**); and
- (b) in respect of any Product, the manufacturer's warranty provided by the manufacturer on the terms set out in clause 12.4 (**Manufacturer Warranty**).

12.3. WORKMANSHIP WARRANTY – SERVICES

- (a) **(Workmanship Warranty)** Revcharge offers a 24-month limited workmanship warranty for any defects in the Services provided under this Agreement on the terms set out in this clause 12.3.
- (b) **(Making a claim)** Where the Client considers that any Services provided by Revcharge are defective, the Client must, within 12 months of receiving the Services, inform Revcharge of that fact in writing **(Claim)**.
- (c) **(Client's obligations)** Where Services are the subject of a Claim:
 - (i) the Client must, at Revcharge's option:
 - (A) leave the Products that are the subject of the Services **(Relevant Products)** in the state and condition in which they were installed, and not use the Products until such time as Revcharge or its duly authorised agent has inspected the Relevant Products; or
 - (B) send Revcharge photographs, descriptions or other material of the Relevant Products and/or evidence of defects in the Services at hello@revcharge.com.au;
 - (ii) Revcharge will inspect the Relevant Products and/or evidence of defects in the Services within a reasonable time after notification by the Client; and
 - (iii) if paragraph 12.3(c)(i) is not complied with, the Client will be taken to have accepted the Services and Revcharge will be entitled to any unpaid Fees that are due and payable for the Services.
- (d) **(Call-out fee)** Revcharge reserves the right to charge the Client a call-out fee, if upon inspection of the Relevant Products in accordance with clause 12.3(c)(ii), Revcharge determines that the Services are not defective in accordance with clause 12.3(j).
- (e) **(Defective Services)** Subject to clause 12.3(l), if, upon inspection, in the reasonable opinion of Revcharge:
 - (i) the Services are defective; or
 - (ii) the Services are otherwise not in conformity with the Quote,then at the discretion of the Client, Revcharge will:
 - (f) replace the Relevant Products or supply the equivalent of the Relevant Products;
 - (g) repair the Relevant Products;
 - (h) pay the Client the cost of replacing the Relevant Products or acquiring the equivalent of the Relevant Products; or
 - (i) pay the Client the cost of having the Relevant Products repaired.
- (j) **(Services not considered to be defective)** If, upon inspection, in the reasonable opinion of Revcharge:
 - (i) the Services are not defective; and
 - (ii) the Services are otherwise in conformity with the Quote,Revcharge will refuse the Client's Claim, and the Client will be taken to have accepted the Services and Revcharge will be entitled to any unpaid Fees that are due and payable for the Services.
- (k) **(Acceptance)** Except where notice has been given in accordance with clause 12.3(b), acceptance of the Services is deemed for all purposes to have taken place:
 - (i) when the Client makes known to Revcharge that it has accepted the Services; or
 - (ii) upon the expiry of seven days from the date of delivery, whichever first occurs.
- (l) **(Exclusions)** Claims under Workmanship Warranty will not be accepted where, in the reasonable opinion of Revcharge, the defect, damage or loss is caused or contributed by:
 - (i) the Client's:

- (A) negligence or failure to take reasonable care;
- (B) failure to take reasonable steps to prevent the defect, damage or loss,
- (C) improper use of the Relevant Product;
- (D) failure to comply with, maintain or use the Relevant Product in accordance with any manufacturer instructions;
- (ii) a third party tampering with the Relevant Product;
- (iii) fair wear and tear; or
- (iv) any other act, omission, misuse or abuse of the Relevant Product by the Client or any party other than Revcharge or its personnel (including its subcontractors).

12.4. MANUFACTURER WARRANTY – PRODUCTS

- (a) Revcharge will pass on to the Client any manufacturer's warranty which applies to that Product. Please refer to the packaging and brochures included with each Product to determine the manufacturer warranty terms and conditions of your purchase (**Warranty Booklet**).
- (b) If you consider that any Products provided by Revcharge are defective, you must contact us at hello@revcharge.com.au. If applicable, we will then direct you to submit a claim to the manufacturer directly in accordance with the terms and conditions set out in the Warranty Booklet provided by that manufacturer.

13. ACCREDITATIONS

Unless otherwise agreed in writing:

- (a) all displays or publications of any deliverables provided to the Client as part of the Services (**Deliverables**) must, if requested by Revcharge, bear an accreditation and/or a copyright notice including Revcharge's name in the form, size and location as directed by Revcharge; and
- (b) Revcharge retains the right to describe the Services and reproduce, publish and display the Deliverables in Revcharge's portfolios and websites for the purposes of recognition or professional advancement, and to be credited with authorship of the Services and Deliverables in connection with such uses.

14. THIRD PARTY GOODS AND SERVICES

- (a) Any Service that requires Revcharge to acquire goods and services supplied by a third party on behalf of the Client may be subject to the terms & conditions of that third party (**Third Party Terms**), including 'no refund' policies.
- (b) The Client agrees to familiarise themselves with any Third Party Terms applicable to any such goods and services supplied and, by instructing Revcharge to acquire the goods or services on the Client's behalf, the Client will be taken to have agreed to such Third Party Terms.

15. PRIVACY AND CONFIDENTIALITY

15.1. PRIVACY

- (a) The parties must comply with:
 - (i) if applicable, their respective obligations under the Privacy Act 1988 (Cth); and
 - (ii) Revcharge's privacy policy located at <https://www.revcharge.com.au/legal-centre/privacy-policy>, or as otherwise in force from time to time.
- (b) Revcharge will keep the Client informed of any changes to its privacy policy during the Project.

15.2. CONFIDENTIALITY

- (a) Except as contemplated by this Agreement, each party must not, and must not permit any of its officers, employees, agents, contractors or related companies to, use or disclose to any person any confidential information disclosed to it by the other party without its prior written consent.
- (b) This clause 15 does not apply to:
 - (i) information which is generally available to the public (other than as a result of a breach of this Agreement or another obligation of confidence);
 - (ii) information required to be disclosed by any law; or
 - (iii) information disclosed by Revcharge to its subcontractors, employees or agents for the purposes of performing the Services or its obligations under this Agreement.

16. WARRANTIES AT LAW

- (a) To the maximum extent permitted by applicable law, all express or implied representations and warranties not expressly stated in this Agreement are excluded.
- (b) Nothing in this agreement is intended to limit the operation of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* (Cth) (**ACL**). Under the ACL, the Client may be entitled to certain remedies (like a refund, replacement or repair) if there is a failure with the goods or services provided.

17. LIABILITY

- (a) (**Limitation of liability**) To the maximum extent permitted by applicable law, the maximum aggregate liability of Revcharge to the Client in respect of loss or damage sustained by the Client under or in connection with this Agreement is limited to the total Fees paid to Revcharge by the Client as at the date of the first event giving rise to the relevant liability.
- (b) (**Indemnity**) The Client agrees at all times to indemnify and hold harmless Revcharge and its officers, employees, agents and contractors ("**those indemnified**") from and against any loss (including reasonable legal costs) or liability incurred or suffered by any of those indemnified where such loss or liability was caused or contributed to by the Client or the Client's officers', employees', agents' or contractors':
 - (i) breach of any term of this agreement; or
 - (ii) negligent, fraudulent or criminal act or omission.
- (c) (**Consequential loss**) Revcharge will not be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this agreement or any goods or services provided by Revcharge, except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth) or any other applicable law.

18. SUBCONTRACTING

Revcharge may subcontract any aspect of providing the Services and the Client hereby consents to such subcontracting.

19. TERMINATION

19.1. GENERAL

- (a) If this Agreement ends, for whatever reason, the parties will:
 - (i) return all property and Confidential Information of the other party to them (including deleting or removing all Confidential Information of the other party from IT systems);
 - (ii) comply with all obligations that are intended to survive the end of this Agreement; and

- (iii) stop using any materials that are no longer owned by or licensed to them when this Agreement ends.

- (b) In addition, one of the following clauses will apply.

19.2. IF EITHER PARTY DECIDES TO END THIS AGREEMENT

- (a) Either party may end this Agreement for its own convenience by sending an email notice to the other party.
- (b) This agreement will end 10 Business Days after the day the notice is sent.
- (c) Within a further 10 Business Days of the end date:
 - (i) you will pay us:
 - (A) any unpaid Fees for Products and/or Services already delivered by us on the end date; and
 - (B) any pre-approved third party costs that we have already incurred on your behalf; and
 - (ii) if terminated by you:
 - (A) prior to a Product being installed at your Premises, then, subject to the Product being returned to us in the state and condition in which it was delivered, we will provide you a refund of any Fees for that Product, minus:
 - (I) an administration fee of \$50 , to the extent that the Products have already been delivered to the Premises (**Admin Fee**); and
 - (II) any non-refundable processing fees charged by third parties providers (including any Payment Providers),and you acknowledge and agree that you will be responsible for arranging for, and any costs associated with, delivery of the Product back to an address nominated by us, in accordance with the delivery instructions provided by us; or
 - (B) after a Product has been installed at your Premises, then subject to clauses 12 and 16(b), we will not offer you a full refund for any Products and Services already provided; or
 - (iii) if terminated by us:
 - (A) prior to a Product being installed at your Premises, we will offer you a full refund of any Fees for Products and/or Services not already provided and, if requested by you, arrange for the Product to be delivered back to us at our cost, provided that the Product is in the state and condition in which it was delivered; or
 - (B) after a Product being installed at your Premises, we will offer you a full refund of any Fees for Products and/or Services not already provided and if requested by you, arrange for the Product to be removed from the Premises at our cost.
- (d) You acknowledge and agree that the Admin Fee:
 - (i) is intended to cover:
 - (A) the losses incurred by Revcharge as a result of carefully reviewing the information (including photos) provided by you under clause 2, selecting the appropriate Products for your needs and preparing and sending you a custom Quote; and
 - (B) the non-refundable third party costs incurred by Revcharge as a result of shipping the Product to you;
 - (ii) is a genuine pre-estimate of our losses as a result of you terminating the agreement early, and does not constitute a penalty; and
 - (iii) does not invalidate any of your other rights, liabilities or remedies under this agreement.

- (e) Before the end date, we will hand over any completed and paid for work, and if requested by you, make reasonable efforts to hand over the Services back to you so you can source an alternative provider.

19.3. A PARTY THINKS THE OTHER PARTY IS IN BREACH

- (a) If a party considers (**notifying party**) that the other party is in breach of this Agreement (**issue**), the notifying party may provide a notice by email to the other party, setting out:
 - (i) the nature and details of the issue (with reference to the relevant clause/s of this Agreement); and
 - (ii) the notifying party's suggestion for resolving the issue (without being under an obligation to find a workable solution for the other party).
- (b) The notice will give the other party 10 Business Days (or longer, in the notifying party's discretion) to rectify the issue.
- (c) If the notifying party later notifies the other party that it has successfully resolved the issue, this Agreement will continue.
- (d) Otherwise, after the notice period, the notifying party may provide a further notice by email to the other party stating that they are terminating this Agreement for breach of the other party.
- (e) Following a termination for breach notice:
 - (i) the parties will comply with the disputes process in clauses 20(b) to 20(h); and
 - (ii) the parties will stop all work under this Agreement unless and until the issue and dispute are resolved and the parties agree in writing to a way forward.
- (f) The indemnities, warranties and liability caps in clause 17 will apply to any disputes and resulting claims.

20. DISPUTE RESOLUTION

- (a) If an issue arises under this Agreement between the parties, it must first be resolved in accordance with the Customer Complaint and Dispute Resolution Policy set out in Schedule 1.
- (b) If the issue under clause 20(a) cannot be resolved in accordance with the process set out in Schedule 1, the parties will make genuine efforts in good faith to participate cooperatively in mediation, at equal shared expense of the parties.
- (c) The parties will conduct mediation through the Australian Disputes Centre (**ADC**) and in accordance with the ADC's Guidelines for Commercial Mediation (as current at the time of the dispute).
- (d) The parties will follow the mediator's recommendations on the extent of mediation required, and when to stop mediation if the issue cannot be resolved.
- (e) If mediation does not resolve the issue, the parties must:
 - (i) if they haven't already done so, engage independent legal representation at their own expense to understand the strength of their arguments; and
 - (ii) based on that advice, if settlement is not achieved, participate in arbitration (or other dispute resolution mechanism agreed in mediation) through the ADC at equal shared expense.
- (f) The parties will follow the binding outcome of arbitration (or other agreed mechanism).
- (g) Either party may at any time during this process make an offer for settlement. The parties acknowledge and agree it is in their best interests to properly consider all genuine settlement offers. The parties will use best endeavours to avoid litigation and reach a prompt settlement.
- (h) The process in this clause does not apply where a party requires an urgent injunction.

21. **FORCE MAJEURE**

- (a) If a party (**Affected Party**) becomes unable, wholly or in part, to carry out an obligation under this agreement (other than an obligation to pay money) due to a Force Majeure Event, the Affected Party must give to the other party prompt written notice of:
 - (i) reasonable details of the Force Majeure Event; and
 - (ii) so far as is known, the probable extent to which the Affected Party will be unable to perform or be delayed in performing its obligation.
- (b) Subject to compliance with clause 21(a) the relevant obligation will be suspended during the Force Majeure Event to the extent that it is affected by the Force Majeure Event.
- (c) The Affected Party must use its best endeavours to overcome or remove the Force Majeure Event as quickly as possible.
- (d) For the purposes of this agreement, a 'Force Majeure Event' means any:
 - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
 - (ii) strikes or other industrial action outside of the control of the Affected Party;
 - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
 - (iv) any decision of a government authority in relation to COVID-19, or any threat of COVID-19 beyond the reasonable control of the Affected Party, to the extent it affects the Affected Party's ability to perform its obligations.

22. **NOTICES**

- (a) A notice or other communication to a party under this agreement must be:
 - (i) in writing and in English; and
 - (ii) delivered via email to the other party, to the email address specified in this agreement, or if no email address is specified in this agreement, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
 - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this Agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or
 - (ii) when replied to by the other party,whichever is earlier.

23. **GENERAL**

23.1. **GOVERNING LAW AND JURISDICTION**

This Agreement is governed by the law applying in Victoria, Australia. Each party irrevocably submits to the exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

23.2. **WAIVER**

No party to this Agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

23.3. SEVERANCE

Any term of this Agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this Agreement is not limited or otherwise affected.

23.4. JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

23.5. ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party.

23.6. COUNTERPARTS

This Agreement may be executed in any number of counterparts. Each counterpart constitutes an original of this Agreement and all together constitute one agreement.

23.7. COSTS

Except as otherwise provided in this Agreement, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this Agreement.

23.8. ENTIRE AGREEMENT

This Agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this Agreement.

23.9. INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (c) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) **(person)** a reference to "person" or "you" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (e) **(party)** a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexures to it;
- (g) **(document)** a reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (h) **(legislation)** a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them from time to time;
- (i) **(time)** a time of day is a reference to Sydney time;
- (j) **(currency)** a reference to "\$" or "dollar" is to Australian currency;
- (k) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (l) **(includes)** the word "includes" and similar words in any form is not a word of limitation; and

- (m) **(adverse interpretation)** no provision of this Agreement will be interpreted adversely to a party because that party was responsible for the preparation of this Agreement or that provision.

24. **DEFINITIONS**

In these terms and conditions, the following words and phrases have the following meaning:

- (a) **Business Day** means a day (other than a Saturday, Sunday or any other day which is a public holiday) on which banks are open for general business in Melbourne.

1. Customer Complaint and Dispute Resolution Policy

1. PURPOSE

The following policy outlines Revcharge's 'Customer Complaint and Dispute Resolution' process.

2. DEFINITIONS

In this Schedule 1, the following words and phrases have the following meaning:

- (a) **Complaint** means any complaint, concern or issue submitted to Revcharge by the Client, including (but not limited to) any complaint relating to:
 - (i) the quality of workmanship of the Services;
 - (ii) the actions or behaviours of any staff and personnel of Recharge;
 - (iii) the management and removal of trade waste (including rubbish and packaging from Products) by Revcharge's third party providers;
 - (iv) any changes to the quoted job which, in the opinion of the Client, are unjustified;
 - (v) any reported damage to property of the Client; or
 - (vi) any breaches by Revcharge (or its personnel) of any environmental or OH&S laws or policies.
- (b) **OH&S** means Occupational Health and Safety.

3. POLICY

- (a) The purpose of this policy is to provide a transparent and accessible process which allows the parties to resolve any Complaint in direct consultation, on a good faith basis, and in a fair and reasonable manner, prior to escalating it to the external dispute resolution process set out in clauses 20(b) to 20(h).
- (b) If the Client submits a Complaint, the Head of Electrical Operations and Sales of Revcharge (or such other person appointed by the board of directors of Revcharge from time to time) (**First Reviewer**) will respond:
 - (i) in the case of Complaints submitted in person or by phone, within 1 Business Day in person or by phone; or
 - (ii) in the case of Complaints submitted in writing, within 2 Business Days in writing.
- (c) In providing a response to the Client under clause 3(b) of this Schedule 1, the First Reviewer will set out:
 - (i) the details of the Complaint;
 - (ii) its proposed decision, including actions to address the Complaint (**First Decision**), and timeframes for implementing that First Decision; and
 - (iii) the reasons for any First Decision made by the First Reviewer, including details of any legislation or policy which support the First Decision.
- (d) If the Client is not satisfied with the First Decision (acting reasonably), it may request that the Complaint be referred for further review by a Director of Revcharge (**Second Reviewer**). The Second Reviewer will respond to the Client within 3 Business Days, either:
 - (i) confirming the First Decision; or
 - (ii) providing an alternative solution (together with timeframes for implementing that solution and any reasons for that solution),(the **Second Decision**).
- (e) If the Customer is not satisfied with the Second Decision (acting reasonably), the Second Review will refer the Complaint to resolution by mediation, and the parties will follow the process set out in clauses 20(b) to 20(h).