

3Quotes General Terms & Conditions of Trade

IN CONSIDERATION of 3Quotes Trading Pty Ltd ACN 628 997 633 ABN 80 628 997 633 (hereinafter referred to as “3Quotes”) providing commercial services to you (hereinafter referred to as “the Client”) annexed to these conditions:

1. Definitions

- a. '3Quotes' means 3Quotes Trading Pty Ltd ACN 628 997 633 and their related bodies corporate (as that term is defined in the Corporations Act 2001).
- b. 'Agreement' means this agreement and any annexure or attachment.
- c. 'Authorised Officer' of a party which is a corporation means:
 - i. an employee of the party whose title contains either of the words 'Director' or 'Manager';
 - ii. a person performing the function of any of them;
 - iii. a solicitor acting on behalf of the party; or
 - iv. a person appointed by the party to act as an Authorised Officer for the purposes of this Agreement and notified to the others.
- d. 'Claim' includes any claim, demand, remedy, suit, injury, action, damage, loss, cost, claim for costs, liability (including indirect or contingent liability), action, proceeding, right of action or claim for compensation or damages.
- e. 'Client' means the party set out in 'Client Details' in the schedule annexed hereto.
- f. 'Client Portal' means client.3quotes.com.au.
- g. 'Commencement Date' means the date the Parties execute this Agreement.
- h. 'GST' means GST as that term is defined in the GST Law, and any interest, penalties, fines or expenses relating to such GST.
- i. 'GST Law' means, where the context requires or permits, the A New Tax System (Goods and Services Tax) Act 1999 and/or associated commonwealth legislation, regulations and publicly-available rulings.
- j. 'Intellectual Property Rights' includes any patent, registered design trademark or name, copyright or other protected right.
- k. 'Leads' means the details regarding a persons who have registered their details with 3Quotes.
- l. 'Lead Recipient' means the email address nominated by the Client in the Client Portal to receive leads.
- m. 'Parties' means 3Quotes and the Client, and Party means either one of them.
- n. 'Postpaid Account' means an electronic account which is credited by the Client after the supply of Services.
- o. 'Prepaid Account' means an electronic account which is credited by the Client prior to the supply of Services.
- p. 'Replacement Policy' means the 3Quotes Replacement policy defining how Lead replacements are managed.
- q. 'Services' means the supply of Leads.
- r. 'Tax Invoice' means a document that complies with the requirements of the GST Law for a tax invoice.
- s. 'Website' means www.3quotes.com.au.

2. Formation of Contract

- a. Acceptance
 - i. Execution of this Agreement by the Client denotes the Client's acceptance of this Agreement and the terms and conditions contained herein.
 - ii. Notwithstanding clause (2)(a)(i), use of the Client Portal will imply the Client's acceptance of this Agreement and the terms and conditions contained herein.
- b. Term of the Agreement
 - i. The terms and conditions of this Agreement apply to any supply of Services from the Commencement Date.
 - ii. This Agreement remains in force until such time:
 1. it is terminated by either Party in accordance with clause 5 hereof; or
 2. the Parties mutually agree in writing to terminate this Agreement.

3. Services

- a. Supply of Services
 - i. 3Quotes agrees to provide the Client with Services on the terms and conditions of this Agreement.
- b. Acceptance and rejection of Leads
 - i. Leads will be made available continually and irregularly throughout the term of the Agreement to the Client in their Client Portal and/or for the Client to select on solarleadmarket.com.au. Should the Client request it, they may also receive leads via email.
 - ii. The Client acknowledges that every time it receives a lead, that lead has been supplied to two other entities, owing to the function of the Website as a 'three quotes' generator. 3Quotes makes no representations or guarantees that any lead will accept any quote from the Client.
 - iii. The Client agrees that for the term of the Agreement, it will accept any Leads it receives via the Website, and 3Quotes agrees the Client may request a replacement for Leads in line with the Replacement Policy.
 - iv. Charges for any Leads that are validly rejected in accordance with clause (3)(b)(iii) shall be refunded to the Client's account balance in the Client Portal within seven (7) days.
- c. Client's obligations
 - i. The Client acknowledges that it:
 1. must co-operate with 3Quotes as 3Quotes reasonably requires to fulfil its obligations under this Agreement;
 2. must provide the information and documentation 3Quotes reasonably requires to fulfil its obligations under this Agreement;
 3. must not sell, give, gift, or otherwise communicate any information regarding any Leads supplied by 3Quotes (whether via the Client Portal or otherwise) to any third party without 3Quotes prior written permission.

4. Remuneration

- a. Pricing
 - i. The 'cost per lead' is specified in Australian dollars (exclusive of GST).
 - ii. Upon the setup of a new account, the Client will select their preferred invoicing and payment method from the options provided.
- b. Taxes and duty
 - i. The Client must pay GST on any taxable supply made by 3Quotes to the Client under this Agreement. The payment of GST is in addition to any other consideration payable by the Client for a taxable supply.
 - ii. If as a result of:
 - iii. any legislation becoming applicable to the subject matter of this Agreement; or

- iv. any changes in legislation or its interpretation by a court of competent jurisdiction or by any authority charged with its administration;
 - v. 3Quotes becomes liable to pay any tax, duty, excise or levy in respect of the amounts received from the Client, then the Client must pay 3Quotes these additional amounts on forty-eight (48) hours' written notice.
- c. No set-off
- i. All payments required to be made by the Client under this Agreement will be made free of any set-off, or counterclaim and without any deduction or withholding, unless otherwise agreed in writing between the Parties.
 - ii. Any amount due to 3Quotes from time to time may be deducted from any monies which may be or may become payable to the Client by 3Quotes.
- 5. Termination**
- a. Termination by notice
- i. The Client may terminate this Agreement by sending an email to 'support@3quotes.com.au' and specifying in writing its intention to terminate this Agreement by giving seven (7) days written notice
- b. Termination upon the occurrence of certain events
- i. Notwithstanding any other rights 3Quotes may have under this Agreement, 3Quotes may suspend the provision of Services and/or terminate this Agreement (to be effective immediately) by providing written notice to the Client if the Client:
 - ii. enters into liquidation, or in the case the Client is an individual, becomes bankrupt; or
 - iii. breaches an essential term of this Agreement.
 - iv. If, for whatever reason, 3Quotes ceases to trade, it may terminate this Agreement (to be effective immediately) by providing written notice to the Client.
- c. Effect of termination
- i. For the avoidance of doubt, termination of the Website or this Agreement will not affect:
 - 1. the right of any Party to whom money is owed hereunder at the time of termination to receive that money according to the provisions hereof; and
 - 2. the rights and/or obligations pursuant to this Agreement which by their very nature are intended to survive termination of this Agreement.
- 6. Assignment, Subcontracting and Limitation of liability**
- a. Assignment
- i. 3Quotes reserves the right to assign this Agreement and to subcontract any or all of its rights and obligations hereunder.
 - ii. This Agreement is personal to the Client and the Client understands and agrees that it may not, without 3Quotes' prior written consent assign or dispose of it;
 - iii. part with any interest in it; or
 - iv. grant any lease or license or delegate or assign any of the rights and/or obligations conferred by it.
- b. Right to Subcontract
- i. In the performance of its obligations hereunder, 3Quotes shall have the right, in its sole discretion, to subcontract its rights and responsibilities to any third party, provided that 3Quotes shall remain responsible for the performance of any such third party.
- c. Limitation of liability
- i. In relation to the supply of Services under this Agreement, 3Quotes' total liability is limited to:
 - ii. supplying the Services again; or providing the cost of having the Services supplied again.
 - iii. The Client agrees that 3Quotes is not liable for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Client as a result of Services supplied under this Agreement. For the avoidance of doubt, this includes liability for any loss and/or damage of any kind, however so occasioned, and damage, liability and injury to the Client, its employees and third parties caused by operation of the Website and/or any lead(s).
 - iv. The Client acknowledges that leads are provided on an 'as is' basis and 3Quotes makes no representation as to the quality of any such leads.
- 7. Indemnity**
- a. The Client indemnifies 3Quotes, its officers, employees and agents against all loss, damage, injury or expense 3Quotes may sustain or incur as a result, whether directly or indirectly, of the provision of Services, a breach of these terms by the Client, or any act or omission of the Client arising out of the supply of Services, including, but not limited to any action or Claim for alleged infringement of any patent, copyright, registered design, trademark or any other Intellectual Property Rights.
- b. This indemnity includes any legal fees and expenses 3Quotes incurs in order to enforce its rights, on an indemnity basis.
- 8. Insolvency**
- a. If the Client becomes insolvent, the Client remains liable under this agreement for payment of all liabilities incurred hereunder. The Client remains liable under this agreement even if the Supplier receives a dividend or payment as a result of the Client being insolvent.
- 9. Costs of Recovery**
- a. The Client agrees to pay all of 3Quotes' costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the Client, including collections costs, debt recovery fees and legal costs on an indemnity basis.
- 10. Privacy**
- a. The Client agrees for 3Quotes to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by 3Quotes.
- b. The Client agrees that 3Quotes may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- i. to assess an application by the Client; and/or
 - ii. to notify other credit providers of a default by the Client; and/or
 - iii. to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - iv. to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- c. The Client consents to 3Quotes being given a consumer credit report to collect overdue payment on commercial credit.
- d. The Client agrees that personal credit information provided may be used and retained by 3Quotes for the following purposes (and for other agreed purposes or required by):
- i. the provision of Services; and/or
 - ii. analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or

- iii. processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
- iv. enabling the collection of amounts outstanding in relation to the Services.
- e. 3Quotes may give information about the Client to a CRB for the following purposes:
 - i. to obtain a consumer credit report;
 - ii. allow the CRB to create or maintain a credit information file about the Client including credit history.
- f. The information given to the CRB may include:
 - i. personal information as outlined in 11.1 above;
 - ii. name of the credit provider and that 3Quotes is a current credit provider to the Client;
 - iii. whether the credit provider is a licensee;
 - iv. type of consumer credit;
 - v. details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - vi. advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and 3Quotes has been paid or otherwise discharged and all details surrounding that discharge(e.g. dates of payments);
 - vii. information that, in the opinion of 3Quotes, the Client has committed a serious credit infringement;
 - viii. advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- g. The Client shall have the right to request (by e-mail) from 3Quotes:
 - i. a copy of the information about the Client retained by 3Quotes and the right to request that 3Quotes correct any incorrect information; and
 - ii. that 3Quotes does not disclose any personal information about the Client for the purpose of direct marketing.
- h. 3Quotes will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this contract or is required to be maintained and/or stored in accordance with the law.
- i. The Client can make a privacy complaint by contacting 3Quotes via e-mail. 3Quotes will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

11. Default and Consequences of Default

- a. 3Quotes reserves the right to suspend or withdraw credit facilities for any reason and at any time without notice
- b. Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of 2.0% per calendar month and interest shall be calculated monthly at such a rate after as well as before any judgment.
- c. If the Client owes 3Quotes any money the Client shall indemnify 3Quotes from and against all costs and disbursements incurred by 3Quotes in recovering the debt including but not limited to internal administration fees, collection agent commission, legal costs on a solicitor and own client basis, 3Quotes's contract default fee, and bank dishonor fees.
- d. Further to any other rights or remedies 3Quotes may have under this contract, if a Client has made payment to 3Quotes, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by 3Quotes under this clause 4 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this contract.
- e. Without prejudice to 3Quotes's other remedies at law 3Quotes shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to 3Quotes shall, whether or not due for payment, become immediately payable if:
 - i. any money payable to 3Quotes becomes overdue, or in 3Quotes's opinion the Client will be unable to make a payment when it falls due;
 - ii. the Client has exceeded any applicable credit limit provided by 3Quotes;
 - iii. the Client becomes insolvent or bankrupt, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - iv. a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

12. Security and Charge

- a. In consideration of 3Quotes agreeing to supply the Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- b. The Client indemnifies 3Quotes from and against all 3Quotes's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising 3Quotes's rights under this clause.
- c. The Client irrevocably appoints 3Quotes and each director of 3Quotes as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause including, but not limited to, signing any document on the Client's behalf.

13. Title

- a. 3Quotes and the Client agree that ownership of the Services shall not pass until:
 - i. the Client has paid 3Quotes all amounts owing to 3Quotes; and
 - ii. the Client has met all of its other obligations to 3Quotes.
- b. Receipt by 3Quotes of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- c. It is further agreed that until ownership of the Services passes to the Client in accordance with clause (13)(a):
 - i. the Client is only a bailee of the Services and unless the Services have become fixtures must return the Services to 3Quotes on request.
 - ii. the Client holds the benefit of the Client's insurance of the Services on trust for 3Quotes and must pay to 3Quotes the proceeds of any insurance in the event of the Services being lost, damaged or destroyed.
 - iii. the production of these terms and conditions by 3Quotes shall be sufficient evidence of 3Quotes's rights to receive the insurance proceeds direct from the insurer without the need for any person dealing with 3Quotes to make further enquiries.

- iv. the Client must not sell, dispose, or otherwise part with possession of the Services other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Services then the Client must hold the proceeds of any such act on trust for 3Quotes and must pay or deliver the proceeds to 3Quotes on demand.

14. Cancellation

- a. Without prejudice to any other remedies 3Quotes may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions 3Quotes may suspend or terminate the supply of Services to the Client.
- b. 3Quotes will not be liable to the Client for any loss or damage the Client suffers because 3Quotes has exercised its rights under this clause.
- c. 3Quotes may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are commenced by giving written notice to the Client. On giving such notice 3Quotes shall repay to the Client any sums paid in respect of the Price, less any amounts owing by the Client to 3Quotes for Services already performed. 3Quotes shall not be liable for any loss or damage whatsoever arising from such cancellation.
- d. In the event that the Client cancels the delivery of Services the Client shall be liable for any and all loss incurred (whether direct or indirect) by 3Quotes as a direct result of the cancellation (including, but not limited to, any loss of profits).

15. Intellectual Property

- a. Where 3Quotes has designed, drawn or developed Services for the Client, then the copyright in any designs and drawings and documents shall remain the property of 3Quotes. Under no circumstances may such designs, drawings and documents be used without the express written approval of 3Quotes.
- b. The Client warrants that all designs, specifications or instructions given to 3Quotes will not cause 3Quotes to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify 3Quotes against any action taken by a third party against 3Quotes in respect of any such infringement.
- c. The Client agrees that 3Quotes may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, plans or products which 3Quotes has created for the Client.

16. Jurisdiction

- a. This agreement shall be construed in accordance with laws of the **State of South Australia** and, where applicable the Commonwealth of Australia and the Client submits to the non-exclusive jurisdiction of the courts in **South Australia**.
- b. 3Quotes shall have exclusive right to nominate the Court in which any legal action is to be commenced and conducted.

17. Acceptance

- a. The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for or accepts delivery of any Services.
- b. These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or contract between the Client and 3Quotes.
- c. Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

18. Errors and Omissions

- a. The Client acknowledges and accepts that 3Quotes shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
 - i. resulting from an inadvertent mistake made by 3Quotes in the formation and/or administration of this contract; and/or
 - ii. contained in/omitted from any literature (hard copy and/or electronic) supplied by 3Quotes in respect of the Services.
- b. In the event such an error and/or omission occurs in accordance with clause (18)(a), and is not attributable to the negligence and/or willful misconduct of 3Quotes; the Client shall not be entitled to treat this contract as repudiated nor render it invalid.

19. Change in Control

- a. The Client shall give 3Quotes not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, change of trustees or business practice). The Client shall be liable for any loss incurred by 3Quotes as a result of the Client's failure to comply with this clause.

20. Service of Notices

- a. Any written notice given under this contract shall be deemed to have been given and received:
 - i. by handing the notice to the other party, in person;
 - ii. by leaving it at the address of the other party as stated in this contract;
 - iii. by sending it by registered post to the address of the other party as stated in this contract;
 - iv. if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission;
 - v. if sent by email to the other party's last known email address.
- b. Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

21. Trusts

- a. If the Client at any time upon or subsequent to entering in to the contract is acting in the capacity of trustee of any trust ("Trust") then whether or not 3Quotes may have notice of the Trust, the Client covenants with 3Quotes as follows:
 - i. the contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
 - ii. the Client has full and complete power and authority under the Trust to enter into the contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
 - iii. the Client will not without consent in writing of 3Quotes (3Quotes will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events;
 - 1. the removal, replacement or retirement of the Client as trustee of the Trust;
 - 2. any alteration to or variation of the terms of the Trust;
 - 3. any advancement or distribution of capital of the Trust; or
 - 4. any resettlement of the trust property.

22. Force Majeure

- a. 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.

23. General

- a. The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. 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.
- b. 3Quotes shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by 3Quotes of these terms and conditions (alternatively 3Quotes's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- c. 3Quotes may license and/or assign all or any part of its rights and/or obligations under this contract without the Client's consent.
- d. The Client cannot license or assign without the written approval of 3Quotes.
- e. 3Quotes may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of 3Quotes's sub-contractors without the authority of 3Quotes.
- f. The Client agrees that 3Quotes may amend these terms and conditions by notifying the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for 3Quotes to provide Services to the Client.
- g. Both parties warrant that they have the power to enter into this contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this contract creates binding and valid legal obligations on them.
- h. 3Quotes shall have public liability insurance of at least \$5m. It is the client's responsibility to ensure they are similarly insured.
- i. Subject to the provisions of sale of Services act 1923 - sect 42 and notwithstanding that the property in the Services may have passed to the client, should the Client be indebted to 3Quotes any Services left for repair as such has by implication of law:
 - i. a lien on the Services for the price while 3Quotes is in possession of them,
 - ii. in case of the insolvency of the client a right of stopping the Services in transit after 3Quotes has parted with the possession of them,
 - iii. a right of resale as limited by this Act.
- j. Website
 - i. 3Quotes reserves the right to update, vary or modify the operation of, or otherwise terminate the Website at any time.
- k. Promotional material
 - i. The Client acknowledges that 3Quotes may from time to time send promotional material and other correspondence regarding new products and/or services to the Client's nominated email and/or postal address.
- l. Relationship
 - i. The relationship between the Parties is that of independent contractors. For the avoidance of doubt, the Client acknowledges that it is not in any way a partner, employee, or authorised representative of 3Quotes and must not represent itself as such in any circumstances.
- m. Remedies cumulative
 - i. The rights provided under this Agreement are cumulative and not exclusive of any rights provided by law.
- n. Counterparts
 - i. This Agreement may be executed in original form and/or by email or facsimile transmission in any number of counterparts, and all counterparts taken together shall constitute one and the same instrument.