

## **SALES AND MAINTENANCE AGREEMENT**

**between**  
**Netherby Investment (Reg no: 2004/057889/23) t/a Netherby Solar**  
**and**  
**the Customer**  
**(as defined in the quotation (“the Quotation”) to which this**  
**Sale Agreement (“the Agreement”) is attached)**

### TERMS OF SALE

1. Netherby Solar agrees to provide the products described in the Quotation (“the Products”) together with the maintenance services described in this Agreement (“the Services”) to the Customer subject to the terms and conditions of both this Agreement and the Quotation.
2. Every purchase made by the Customer from Netherby Solar shall be governed by the terms and conditions recorded in this Agreement.
3. The Customer confirms that he has read and understood all the terms and conditions in this Agreement and raised any questions which require clarification before signing the Agreement.

### PRICES AND QUOTATIONS

4. Netherby Solar is entitled to vary the price contained in the Quotation in the following circumstances where it was unaware of all the relevant factors affecting the price:
  - a. Any additional Services and/or Products requested by the Customer, which were not included in the original quotation.
  - b. Any unexpected increase in the volume or extent of materials and/or products, for example length of pipe needed.
  - c. Any additional work required to complete the Services, which was not reasonably anticipated at the time of the original Quotation.
5. Any material price variation will be submitted in writing to the Customer for his/her approval.
6. No work will commence without an order and the Customer’s signing of the Quotation or the payment of the deposit referred to below, where applicable. Telephonic instructions are deemed as official orders.
7. By paying a deposit or signing the Quotation (where a deposit is not payable) the Customer accepts the Quotation and any additional terms and conditions specified on the Quotation.
8. Upon signature of the Quotation an installation date will be arranged with the customer.
9. All sales are considered ex Port Elizabeth. Shipment/delivery costs will consequently be charged accordingly and reflected in the Quotation.
10. If the Customer cancels an order prior to delivery, Netherby Solar shall be entitled to impose a cancellation fee. The cancellation fee will depend on the nature of the order, the length of notice and the reason for cancellation. The Customer shall not be entitled to a deposit refund in the event of cancellation Special-Order Products.

### PAYMENTS DUE IN RESPECT OF THE PRODUCTS

11. Netherby Solar shall remain the owner of the Products until all amounts due in terms of this Agreement have been paid in full.
12. The Customer shall pay for the Products in accordance with the following payment schedule on receipt of an invoice from Netherby Solar:
  - a. For single day Solar Water Heating and Heat Pump installations:
    - i. A sixty-five per cent (65%) deposit upfront
    - ii. A further thirty five per cent (35%) on the date of installation or when all components have been installed independent from the commissioning or sign-off of the Product.
  - b. For Photovoltaic & Back-up Installations: 80% on order, 20% after installation.
  - c. For multiple day installations:
    - i. Progressive invoicing is compulsory on all jobs with time frames of more than one week.
    - ii. An invoice will be issued each week for the work and material to be used in the following week.
    - iii. Work on the next phase will only commence after the invoiced work has been paid up in full.
13. The Customer shall not be entitled under any circumstances to withhold any payment due to Netherby Solar in terms of this Agreement.
14. All discounts will be forfeited if payment is not received according to the payment schedule above.
15. No cheques will be accepted.
16. All payments shall be made into Netherby Solar's bank account reflected on the Quotation.
17. Payment will only be confirmed by Netherby Solar after the payment has been cleared by Netherby Solar's bank.
18. No Product will be delivered or made available for collection until the deposit paid has been cleared by Netherby Solar's bank.

#### THE CUSTOMER'S OBLIGATIONS

19. The Customer shall provide reasonable access to his property over normal working hours, being Monday-Friday 8:00-18:00 in order for Netherby Solar to be able to perform its obligations in terms of this Agreement.
20. The Customer shall co-operate with all reasonable requests by Netherby Solar in order to assist Netherby Solar to perform its obligations under this Agreement.
21. Any delays caused by the Customer shall be charged per hour of standstill as per Netherby Solar's standard rates in Annexure "A".
22. The Customer shall provide electricity, water and toilet facilities to Netherby Solar for the purpose of Netherby Solar performing its obligations in terms of this Agreement.
23. The accuracy of any measurements requested by Netherby Solar for the supply of the Products and provision of the Services shall be the responsibility of the Customer and any expenses incurred by Netherby Solar as a result of an inaccurate measurement shall be met by the Customer.
24. The Customer shall be liable for any expenses incurred by Netherby Solar as a result of the customer's failure to comply with his obligations as defined in this Agreement.

25. The risk in and to any Products purchased from Netherby Solar shall pass to the Customer, immediately upon delivery to the Customer or to the address nominated by the Customer for delivery.
26. The Customer is responsible for informing Netherby Solar of the position of possible hidden air-conditioning pipes, water pipes and electrical cables. Netherby Solar will not accept liability for the damage of hidden pipes or cables that were not brought to its attention by the Customer.
27. The Customer is responsible for ensuring his availability on the day of installation so that the Product can be explained to him and so that all necessary documentation pertaining to the Product including Warranty documents, User Manuals and Eskom Rebate Documents as well as CoC's where requested can be handed to him.

#### BREACH

28. In the event of either Party failing to meet its obligations under the Agreement, the innocent Party shall be entitled to cancel the Agreement or demand specific performance of the other Party's obligations together with any damages suffered by the innocent Party as a result of such default, provided that the defaulting Party is given 10 days written notice to remedy the default.

#### LIMITATION OF LIABILITY

29. Netherby Solar shall not be liable for any loss or damage by reason of the non-delivery of the Products or for any delay in executing delivery caused by force majeure or by any other cause beyond the control of Netherby Solar.
30. Netherby Solar shall not be liable for any indirect or consequential damages suffered by the Customer arising out of any breach of its obligations in terms of this Agreement, including the obligations of its employees or agents.
31. Netherby Solar will not be liable in any manner for any indirect, special or consequential damages suffered by the Customer arising out of the negligent use of any of the Products purchased or the malfunction thereof.
32. Netherby Solar will not be held responsible or liable for any costs, expenses, fees, damage or any other matter associated with the installation or removal of the Products.
33. Netherby Solar shall not be liable for the lapsing of or changes to a warranty held over the customer's existing geyser as a result of the installation of the Products.

#### DELIVERY

34. Products delivered by Netherby Solar shall be delivered to the Customer's premises, or to such address stipulated by the Customer. If requested by the Customer to place the Products in a building on the premises Netherby Solar will not be responsible in any manner for any theft or damage to such Products.

#### MATERIAL, PRODUCTS & EQUIPMENT

35. Should the Products ordered by the Customer have, due to no fault of Netherby Solar, been superseded, replaced or otherwise become unavailable, Netherby Solar will offer similar alternative Products at the prevailing price to those ordered by the Customer.

36. If the Customer supplies any material, products or equipment, and/or accessories for the purposes of installing the Product, Netherby Solar shall not be responsible for any defect in such materials, products or equipment or any damages arising from the use of such materials, products or equipment. The Customer agrees that such damages shall be for its own account.

#### PRODUCT DEFECTS: WARRANTIES

37. In addition to the Customer's statutory rights in relation to product defects, Netherby Solar shall provide the warranties recorded in Annexure "B" to this Agreement, subject to the terms and conditions of Annexure "B" and the provisions pertaining to Maintenance below.

#### SERVICE DEFECTS

38. Any defects pertaining to the Service and workmanship shall be communicated to Netherby Solar within seven (7) days of the Customer identifying the defect.
39. Netherby Solar shall be afforded an opportunity to, within fourteen (14) days of receipt of an alleged defect report, inspect the alleged defect and:
- a. If Netherby Solar is of the view that the workmanship and/or Service defects are of acceptable standards, it shall notify the Customer in writing of its findings together with reasons;
  - b. If the Customer does not accept the findings, he shall be entitled to enforce his rights in terms of applicable consumer law;
  - c. If Netherby Solar is of the view that the work is of an unacceptable standard, any defects in the workmanship or Services provided shall be rectified, within a period of fourteen (14) days, to the reasonable satisfaction of the Customer, at Netherby Solar's cost.

#### MAINTENANCE, SERVICE AND REPAIRS

40. Netherby Solar shall on request provide the Customer with an annual service inspection of the Product installed in line with the Product manufacturer's recommendations.
41. Such annual service inspection shall be charged in accordance with the price for Standard Maintenance Service provided in Annexure "A".
42. The Customer shall book such service (and all subsequent annual services) with Netherby Solar.
43. In order to be able to rely on the product warranties above, the Customer shall ensure that it continues to maintain the Product for the period of the warranty in accordance with the provisions of this Agreement. After the expiry of the warranty period, the Customer shall be entitled to approach a service provider of his choice in respect of the on-going maintenance of the Product.
44. All maintenance and annual services shall be provided in accordance with the provisions of Annexure "C" to this Agreement.
45. Netherby Solar shall provide a on-site training on controllers and other components of the Products on the date when the Customer requests the commissioning of the Products. Should the Customer miss the opportunity for the training on this date, the Customer can request Training on any other day at a later stage, which will then be charged at a Standard Service Call rates as per Annexure "A".

## GENERAL RIGHTS AND OBLIGATIONS OF THE PARTIES

46. No amendment, addition or consensual cancellation of the Agreement will be binding unless it is recorded in writing and signed by duly authorised representatives of both parties to this Agreement (“the Parties”).
47. The Parties agree to accept any notice and legal processes at the addresses indicated in the Quotation.
48. The Parties consent to the jurisdiction of the Magistrates Court in any action or dispute arising as a result of this Agreement and irrespective of the amount in dispute.
49. In the event of Netherby Solar having to instruct its attorneys to recover moneys from the Customer, the Customer shall be liable for and shall pay all legal costs incurred by Netherby Solar on an attorney Customer basis, inclusive of collection commission.
50. The Parties acknowledge that each clause of this Agreement is separate. If any clause of this Agreement is or becomes illegal, invalid or unenforceable for any reason or in any jurisdiction, the clause shall be treated as if it had not been written. This does not make the rest of the Agreement illegal, invalid or unenforceable or affect the legality, validity or enforceability of the clause in another jurisdiction.

Annexure "A"

STANDARD SERVICE CALL PRICE LIST: (prices valid if not quoted separately)

2018, 10% escalation yearly thereafter

- A. Service Call Fee – all prices incl. VAT:
- a. Annual Standard Maintenance Service (no faults). R 1,300.00  
Includes 1 hour onsite analysis/repair by technician.
  - b. Service Call / half hour thereafter R 490.00 (½ hour)  
Includes ½ hour onsite analysis/repair by technician.
- The above rates apply to customers within 30 km from P.E.
- c. Each km outside of the 30 km range from P.E R 5.50
  - d. Electrical CoC R 750.00
  - e. Plumbing CoC R 750.00
- B. Technical Assessment for systems not installed by Netherby Solar R 490.00
- a. This assessment does not include any repair or maintenance
  - b. The assessment is there to establish what needs to be done
  - c. Technical Assessments are payable upfront.
  - d. A quotation will be issued after the assessment to ensure the following:
    - i. Compliance & Safety
    - ii. Working conditions and savings
    - iii. Maintenance
  - e. Please note that Netherby Solar is unable to take over warranties for systems installed by someone else.

## Annexure "B": PRODUCT WARRANTY STATEMENT

### Product Warranties

1. The manufacturer of each of the major components of the Product (being the collector & geyser) carries a manufacturers warranty of no less than 5 years in accordance with its warranty provisions, which warranty shall be provided to the Customer on the date of installation together with Netherby Solar's invoice.
2. The manufacturer of heat pumps carries a manufacturers warranty of no less than 2 years in accordance with its warranty provisions, which warranty shall be provided to the Customer on the date of installation together with Netherby Solar's invoice.
3. The manufacturer of each of the minor components of the Product (being the electrical components, elements and sacrificial anodes) has warranted each minor component for a period of not less than 12 (twelve) months in accordance with its warranty provisions, which warranty shall be provided to the Customer on the date of installation together with Netherby Solar's invoice. The manufacturer's warranty in respect of each minor component does not include the labour costs involved in the replacement of the relevant minor component.
4. The manufacturer of the Geysewise Max carries a manufacturers warranty of no less than 6 months in accordance with its warranty provisions, which warranty shall be provided to the Customer on the date of installation together with Netherby Solar's invoice.

### Service Warranties

In addition to any warranties arising in law:

1. Netherby Solar shall install the Products in accordance with SABS solar water heater installation standards SANS 10106 and SANS 10142-1 and upon request of the Customer issue both a Certificate of Compliance from the Plumbing Industry Registration Board (PIRB) and an electrical Certificate of Compliance signed by a Department of Labour registered electrician which shall be provided to the Customer. Such CoC's will be charged for in accordance with Annexure "A".
2. This warranty provided by Netherby Solar refers only to the workmanship on installations carried out by Netherby Solar and is only valid for three months if the Customer has paid all amounts due by it in terms of this Agreement.

### Terms of Warranties

3. It is the Customer's responsibility to keep his invoice as proof of the purchase date and, if required by the manufacturer of the Products, to register his warranty with the manufacturer.
4. Any work to be performed by Netherby Solar pursuant to a claim on the warranty will be carried out during ordinary working hours (Monday to Friday from 8:00 to 17:00).
5. Re-settings and performance problems due to failure in electricity or water supply do not fall within the ambit of these warranties. Consequently, call-outs to fix these problems will be charged for according to the rates provided for in Annexure "A".

### Annexure "C" – Maintenance Agreement

Netherby Solar shall maintain the Products and provide annual service inspections at the rates provided for in Annexure "A" for the warranty period identified in Annexure "B". The Customer shall book such annual services with Netherby Solar on at least 30 days' notice.

The on-going maintenance and annual services shall be provided subject to the following conditions:

1. Service Calls will only be done for Customers whose accounts are paid in full.
2. A Service Call Fee will be charged on any unnecessary call out (nothing is wrong) or if the Customer failed to provide access to the property.
3. Service Call Fees are charged according to the Service Call Price List as provided for in Annexure "A", which fees shall escalate annually by 10% (ten per cent).
4. Service Call Fees do not include any parts needed to repair the fault.
5. The technician's time is calculated upon arrival onsite. Driving time is not charged for.
6. Parts needed for the repair of the system are not included in the Service Call Fee and will be charged separately.
7. Should a second visit be necessary, another Service Call Fee will be charged if such second visit is not due to the fault or negligence of the technician.
8. Second visits shall only be completed after the first visit has been paid up by the Customer.