



General Terms and Conditions of Purchase Amended: February 17, 2021 – Revision 4

These General Terms and Conditions of Purchase (the “Conditions”), subject to any variations we agree to in writing, apply to the purchase of goods and/or services, identified herein after as (the “Goods and Services”) by earthconnect Pty Ltd ABN: (62 139 647 359), earthconnect EPC Pty Ltd ABN: (38 647 977 311) and earthconnect Developments Pty Ltd ABN: (92 648 557 108) identified herein after as (the “Company”, we or us) from the Supplier or Service Provider, identified herein after as (the “Supplier”).

Any amendments proposed to the Conditions, and notified to us by the Supplier will apply only to the extent that we expressly accept them in writing. The Supplier shall supply the Goods and Service described in our purchase order, and this shall constitute acknowledgement and acceptance of these Conditions.

The Supplier will be deemed to have accepted our purchase order, giving rise to a contract for the supply of the Goods and Services subject to these Conditions, unless the Supplier rejects the purchase order within two (2) business days of its delivery.

The Supplier acknowledges and agrees that our liability to pay under these Conditions falls solely on the entity that issued our purchase order, but the obligations the Supplier accepts and warranties the Supplier makes under these Conditions are accepted and made for the benefit of all of the Company entities and that the Company entity issuing our purchase order contracts as agent on behalf of each other related Company entity.

1. WARRANTIES AND LIABILITY

1.1 the Supplier warrants and agrees in relation to the Goods and Services that:

- a) the Supplier has title, free of all liens, charges, encumbrances, mortgages and other security interests whatsoever, and title will transfer to us in accordance with these Conditions;
- b) they are fit for the purpose for which they are ordinarily used or, if we have disclosed it, our purpose, and are of merchantable quality;
- c) they conform with any technical specifications and performance specifications specified by us, published by the Supplier in relation to them, or implied by our proposed use of them;
- d) they conform entirely with their description in our purchase order;

- e) if the Supplier has provided a sample of the Goods, then this is a contract for sale by sample as well as by description;
- f) they comply with all applicable laws and standards, Australian or otherwise; and
- g) they will be appropriately packed for transport to us, so that they will not be damaged in transit.

1.2 The Supplier warrant and agree in relation to the Goods and Services that:

- a) they will be provided with due skill and care to a standard expected of an organisation experienced in the delivery of Goods and Services of this kind;
- b) will comply with any of our applicable policies and procedures as they relate to the performance of the Goods and Services;
- c) the Supplier will procure and maintain all licenses, permits and authorisations necessary for the Supplier to supply the Goods and Services; and
- d) in supplying the Goods and Services, the Supplier will comply with, and not do anything which would cause us to contravene any applicable laws.

1.3 In addition to our other rights, we are entitled to the rights provided under Competition and Consumer Act 2010 (Cth) as if that Act applied to the supply of the Goods and Services.

1.4 The Supplier indemnify us, and will keep us indemnified, in respect of all losses, costs, expenses and damage of any nature (including consequential loss) arising directly or indirectly as a result of any breach by the Supplier of these Conditions, and any claims by third parties for compensation for personal injury or loss or damage to property as a result of the Suppliers act or omission. This clause applies notwithstanding anything in the Supplier trading terms which might otherwise exclude or limit such liability.

1.5 In connection with the provision of Goods and Services by the Supplier to us under these Conditions, the Supplier must:

- a) act in an ethical and socially responsible manner and adopt behaviours that are reasonably expected of companies of a similar size and nature to the Supplier;
- b) ensure that all statements made by the Supplier to us, including notices, reports and other communications, accurately reflect the actual activities and transactions between us; and
- c) to the extent the Supplier have not already done so, become a signatory to and adhere to the principles of the United Nations Global Compact.

2. WARRANTY PERIOD

2.1 In addition to our rights under clause 1, the Supplier warrant that the Goods and Services will be free from any defects, deficiencies or other faults in their design, workmanship, material and satisfactory mechanical and electrical functioning, from the date of acceptance by us for a period of twenty four (24) months (or such other period we agree in writing) (Warranty Period).

2.2 The Supplier will repair any defects, deficiencies or other faults in the Goods and Services which become apparent during the Warranty Period or promptly replace the Goods and Services, if necessary, at no cost to us.

2.3 A fresh warranty for the same period commences in relation to any item repaired or replaced from the date of repair or replacement.

3. PRICE AND PAYMENT

3.1 We will pay the Supplier the price specified in our purchase order (Price). The Price is inclusive of any sales tax and duty, but exclusive of GST. Except to the extent expressly provided in our purchase order:

- a) we will pay no charges for packing or carriage of the Goods and Services, expenses, duties, other taxes or imposts or any of the Suppliers other costs; and
- b) the Supplier will not be entitled to any adjustment in Price due to fluctuations in exchange rates, material costs, taxes, duties or labour costs, nor shall the pricing be subject to any form of rise and fall calculations, whatsoever.

3.2 Unless otherwise specified in our purchase order, the Supplier may invoice us after completing delivery of the Goods and Services, and we will pay the Suppliers invoice within 60 days of the end of the month in which it is received. We may pay the Supplier by cheque, credit card, electronic funds transfer or cash.

4. GST

4.1 If, and to the extent that, the supply of Goods and Services is a taxable supply then, subject to our receipt of a valid tax invoice, in addition to and at the same time as we pay the Price, we will pay any GST payable for the taxable supply.

4.2 All rebates, discounts or other reductions in price will be calculated on the GST exclusive price.

4.3 Any costs to be reimbursed or indemnified exclude any amount of GST for which an input tax credit can be claimed.

4.4 Expressions in italics in this clause 4 have the same meaning as given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

5. RIGHT OF REJECTION

5.1 We may reject any of the Goods and Services if the Supplier fails to comply with these Conditions, or they do not meet our specifications. Upon any such rejection:

- a) we will notify the Supplier of the rejection in writing and the Supplier must, at the Suppliers cost, collect the rejected Goods and Services.
- b) we have no obligation to pay for the rejected Goods and Services; and
- c) the Supplier remain liable under clause 1.4 for any cost, loss, damage or liability suffered in relation to the rejected Goods and Services or our rejection of them.

5.2 Our payment for Goods and Services, signing of a delivery docket or other acknowledgement of delivery does not prejudice our right of rejection.

6. DELIVERY

6.1 The Goods and Services must be delivered at the time and place specified in our purchase order or as otherwise specified by us in writing.

6.2 We have no obligation to accept or pay for Goods or Services not delivered in accordance with clause unless:

- a) the failure was caused by circumstances beyond the Suppliers control; or
- b) we consent in writing to a change to the time or place of delivery.

6.3 The Supplier must advise us immediately in writing if:

a) delivery is unlikely to take place on the due date; or

b) there is a partial loss of, damage to, or defects in any delivery of Goods or Services; and

the Supplier must take all necessary steps to avoid or minimise any delay and must immediately replace any lost or damaged Goods and Services or rectify any defect in the Goods and Services at the Suppliers cost, if we so require.

7. PASSING OF TITLE AND RISK

7.1 Title to the Goods and Services passes to us on delivery.

7.2 The Goods and Services remain at the Suppliers risk until they have passed our inspection and performance tests and have been accepted by us in writing.

7.3 All tools, dies, patterns, jigs, equipment and drawings created or used in the performance of the Goods and Services or manufacture of the Goods and Services and which are paid for by us are our property and must not be used without our authority.

8. INTELLECTUAL PROPERTY

8.1 The Supplier warrants that the Goods and Services and any materials supplied to us in the performance of the Goods and Services do not infringe any patent, trademark, registered design, name, copyright or other protected right (Intellectual Property) and that we will be free to use them without infringing any such Intellectual Property.

8.2 To the extent that use of the Goods and Service requires a licence of rights in Intellectual Property belonging to a third party the Supplier must procure for us a perpetual, royalty-free, transferable licence to use that Intellectual Property in respect of our use of the Goods and Service.

8.3 The Supplier agrees that we will own all Intellectual Property arising as a result of the provision of the Goods and Services and the Supplier shall assign to us all rights and title to such Intellectual Property. The Supplier must procure all necessary arrangements with the Suppliers personnel to give effect to this clause.

9. INSURANCE

The Supplier must have, and must ensure that any sub-contractors have, public liability, workers' compensation, professional indemnity and vehicle and plant insurance policies, which are current and in amounts reasonably acceptable to us. We may require evidence of that insurance at any time.

10. TERMINATION

10.1 We may, without penalty and without prejudice to any of our other rights, cancel our purchase order immediately by written notice if the Supplier:

a) breach these Conditions and fail to remedy the breach within 14 days of our notice of the breach to the Supplier;

b) become bankrupt or insolvent, unable to pay the Suppliers debts as they fall due or enter into or become subject to any form of insolvency administration;

c) do anything which in our reasonable opinion has the potential to prejudice our reputation, or

d) notify us of an anticipated delay in the delivery of Goods or Services and we consider the delay will significantly affect our business.

10.2 We may cancel our purchase order in respect of Goods and Services at any time on seven days' notice, provided that we will pay the Supplier for any Goods and Services performed or provided prior to termination or a portion of the Price reasonably attributable to Goods and Services performed prior to termination.

10.3 Termination will not affect any rights accrued prior to termination.

11. GENERAL

11.1 Defined expressions bear their defined meaning wherever used in these Conditions unless the context requires otherwise.

11.2 If a party comprises two or more persons, these Conditions apply to those persons jointly and each of them individually.

11.3 If any part of these Conditions is illegal or unenforceable, it will be severed from these Conditions and the remaining terms and conditions will continue in full force and effect.

11.4 We may set-off any amounts owed by us to the Supplier against amounts owed by the Supplier to us on any account whatsoever.

11.5 Should any significant change in law or regulation (including the introduction of any form of emission or carbon trading scheme or emissions or carbon tax) occur during the Term, the Supplier will not be entitled to increase the price payable by the Company without agreement in writing except to the extent such increase is not permitted by law.

11.6 Our confidential information may be used only for the supply of the Goods and Services and the Supplier must keep our confidential information secret.

11.7 These Conditions are governed by the laws of the State of New South Wales of Australia where our purchase order originated, and the Supplier submits to the jurisdiction of the courts of such.

11.8 These Conditions shall take precedence over any variation to these Conditions, which has been agreed in writing or otherwise, or any other contractual arrangement that may apply to the purchase of Goods and Services.

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