

Terms and Conditions of Sale**1 Definitions**

Unless the context indicates otherwise:

"Contract" means these Terms and Conditions of Sale as amended from time to time read together with any other document provided to you by E2E, including but not limited to any tax invoice accompanying the Product.

"Customer" means the person/company placing the order with E2E for the purchase of Product.

"Force Majeure" includes but is not limited to an act of God, war or terrorism; lightning; fire; earthquake; storm; flood; explosion; unavailability or delay in availability of equipment, Product, raw materials or transport; labour dispute or strike; political or civil disturbances or any other cause directly and indirectly outside of the control of E2E.

"GST" has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

"Product" means any product and/or any service supplied by E2E on these terms and conditions, but not including Software. Further, Product includes reference to any individual item as well as to a number of items whether or not included in a single quote or invoice.

"Software" means all computer programs and associated source code howsoever expressed and stored which is supplied with the Product.

1.1 "Tax Invoice" has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999*.

2 General

2.1 Orders are accepted and Product sold by E2E on these terms and conditions.

2.2 The placing of an order whether orally, by facsimile, by telephone, by e-mail, by mail or otherwise with E2E and the acceptance of the order by E2E will incorporate these terms and conditions in the sale contract.

2.3 No variation or modification of, or substitution for or any stipulation in the Customer's purchase order contrary to these terms and conditions apply unless expressly accepted by E2E in writing.

3 Orders

3.1 An order placed whether orally, by facsimile, by telephone, by e-mail, by mail or otherwise shall not be binding on E2E unless or until accepted by E2E and the Customer is notified of such acceptance.

3.2 The Customer acknowledges that upon E2E accepting the order and notifying the Customer, the Customer enters into a legally binding sale contract with E2E subject to these terms and conditions. The Contract cannot be cancelled or altered other than with the written consent of E2E.

3.3 E2E shall not be liable for any non-fulfillment of any order placed as a result of a Force Majeure.

4 Taxes and Other Costs; Terms of Payment

4.1 Unless otherwise stated by E2E all prices quoted by E2E exclude delivery and handling charges, which shall be borne by the Customer.

4.2 All taxes, levies and other government charges imposed on the sale of the Product (including GST if applicable) shall be paid for by the Customer.

4.3 Unless otherwise agreed in writing, all invoices are to be paid net with no deduction whatsoever within **fourteen (14) days** from the date of the invoice. E2E may charge default interest on overdue amounts accruing daily from the due date of payment until the date of actual payment at a rate 3% per annum above the rate from time to time fixed by the *Penalty Interest Rates Act 1983* (Vic).

5 GST

5.1 The Customer must pay to E2E with any payment it makes under the Contract an additional amount equal to any GST payable by E2E on the supply for which the payment is made.

5.2 E2E must give a Tax Invoice to the Customer if the Customer receives a payment under clause 5.1.

6 Date of Delivery

Any delivery dates quoted by E2E are non-binding and based on the conditions prevailing at the time the order is placed and under the assumption of normal supply and manufacturing conditions. E2E shall not be liable in any way for delays in the supply of Product and the Customer shall not be entitled to treat this Contract as repudiated if delivery is not made at the quoted time.

7 Acceptance of Product

7.1 Unless the Customer notifies E2E to the contrary within thirty (30) days of receipt of the Product, the Product shall be deemed to have been accepted by the Customer as being of good and merchantable quality and in conformance with the Customer's order.

7.2 Where it is specifically provided in the Tax Invoice accompanying the Product that the Product is sold with a thirty (30) day money back guarantee, if the Customer returns the Product within thirty (30) days of receipt of the Product in an "as sold" condition, including all packaging, documentation, invoices etc, E2E will refund the Customer's purchase, subject to a 10% restocking fee that may be withheld. This clause shall not apply in respect of any Product which has been customised to the Customer's requirements and/or specifications.

8 Retention of Title and Risk

8.1 Unless otherwise agreed between the parties in writing with respect to any particular order, risk in the Product shall pass to the Customer immediately upon delivery to the Customer or the Customer's carrier, if so appointed by the Customer.

8.2 Title to sold Product will pass to the Customer only after the Customer has fully paid for the Product (and all other amounts owing by the Customer to E2E) in full. Until such payment has been made, the Customer shall hold the Product as E2E's bailee and shall store the Product in such a manner as to make it clearly identifiable as E2E's property.

8.3 Without prejudice to E2E's rights to claim for payment of the purchase price, if E2E seeks to recover the Product for non-payment, the Customer hereby grants a licence to E2E to enter any premises occupied by the Customer for the purpose of recovering the Product. The Customer must provide E2E with all reasonable assistance in order to locate and collect the

8.4 Product. If the Product is not available for collection at the nominated time and/or place the Customer will be liable for any additional costs E2E incur. E2E will not be liable for any damage to property caused by any person in collecting the Product.

9 Warranty and Liability

9.1 E2E warrants the Product against defects in materials and workmanship for a period of one (1) year from the date of the original Customer's purchase. Proof of original purchase must be provided when claiming on this warranty.

9.2 If the Product is returned to E2E (at the Customer's cost) with the defect specified in clause 9.1 during the warranty period, E2E will at its option replace the Product with the same or equivalent product, or repair the Product using new or refurbished replacement parts. The replacement or repaired Product shall be covered by the balance of the remaining warranty period of the original Product, and if that period is less than 90 days then the warranty shall be extended for 90 days after replacement or repair. The returned defective Product shall become the property of E2E.

9.3 Any Product which is no longer within the warranty period or which is found fault free will be returned to the Customer at the Customer's cost.

9.4 The warranty specified in clause 9.1 only applies in relation to Product manufactured by E2E. All other Products supplied by E2E are subject to the warranties granted by the manufacturers thereof.

9.5 The warranty specified in clause 9.1 shall not apply to defects resulting from:

- (a) operation or storage of the Product outside E2E's environmental specifications;
- (b) misuse, misapplication, improper handling and maintenance of and accident and damage to the Product (including but not limited to damage caused by spikes in electricity supply to the Product and repairs performed by repairers not authorised by E2E);
- (c) unauthorised modification of the Product; and
- (d) any interference from or exposure to microwave or radio frequency transmitters, including but not limited to any wireless devices.

- 9.6 The warranty specified in clause 9.1 only extends to the original Customer and no other person.
- 9.7 Apart from clause 9.1, nothing contained in the Contract shall be construed as an express warranty or representation of any kind on behalf of E2E.
- 9.8 Notwithstanding anything herein contained, all warranties implied by law are excluded to the maximum extent permitted by law, and where such implied warranties cannot be excluded then to the extent E2E may limit its liability from such implied warranties E2E's total liability for a breach of an implied warranty shall be limited at E2E's discretion to:
- (a) the replacement of the Product or supply of same or equivalent product;
 - (b) the repair of the Product;
 - (c) refund of the purchase price; or
 - (d) the cost of repair or replacement of the Product.
- 9.9 E2E's liability for any claim arising out of or in connection with the purchase, use or performance of the Product shall not extend to any incidental, indirect, special or consequential loss or damage. Further, E2E will not be liable for any claim which extends to any loss or damage in the nature of loss of:
- (a) actual or anticipated revenue, profits or savings;
 - (b) interest, goodwill or data;
 - (c) production or raw materials; or
 - (d) amounts payable to idle or stood-down personnel,
 - (e) personal injury as a result of opening/disassembling of the Product
- even if the potential for such loss or damage has been made known to E2E.

10 Recommendation and Advice

The Customer shall not rely upon any recommendation or advice given by E2E and the Customer and shall satisfy itself that the Product is suitable for its intended process or purpose.

11 Software

- 11.1 The Customer must comply with the terms of any licence agreement provided with the Software.
- 11.2 All Software and the intellectual property in the Software shall remain the property of E2E.
- 11.3 The Software is to be used in conjunction with the Product only and E2E will not be liable for any loss or damage suffered by the Customer directly or indirectly caused or contributed to by the Software being used in conjunction with any third party product.

12 Default

- 12.1 If the Customer defaults in making any payment, breaches any of these terms and conditions, repudiates this Contract or any other sale contract it has with E2E, dies, stops payment, calls a meeting of creditors, becomes insolvent or subject to the bankruptcy laws or being a company enters into any scheme of arrangement with creditors or receivers and managers or administrators are appointed or has any winding up petition presented against it, then in such circumstances E2E may at its sole discretion and option at any time prior to payment in full for the Product and for any other Product supplied by E2E for which payment is outstanding suspend or cancel the Contract, require payment in cash before delivery of the Product (irrespective of any terms of payment previously specified), take over or repossess the Product and dispose of the Product without prejudice to any claim E2E may have for damages for any loss or damage resulting from any sale or disposal of the Product and exercise all rights over the Product as if it were the owner.
- 12.2 This clause shall apply notwithstanding any waiver by E2E of any default or failure by the Customer to comply with these terms and conditions and without prejudice to its other rights under the Contract.
- 12.3 If the Customer is in default of the Contract the Customer consents to E2E its servants and agents entering the Customer's premises, or any other premises where the Product is located, using such force as is necessary in order to repossess the Product.

13 Governing Law

The Contract and these terms and conditions are governed by the laws of Victoria. The application of the UN Convention on the International Sale of Goods (Vienna, 1980) is expressly excluded. The Customer irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria.

14 Address for Orders and Notices

E2E may be contacted:

- 14.1 by telephone on (+613) 9681 9118 between 9.00am and 5.00pm (Australian Eastern Standard Time) Mondays to Fridays, excluding public holidays in Victoria;
- 14.2 by facsimile at (+613) 9681 9110;
- 14.3 by email at Contacte2eit@e2eit.com.au; or
- 14.4 by mail at Unit 10, 3 Westside Avenue, Portside Business Park, Port Melbourne VIC 3207, Australia.

15 Entire Contract

The Contract constitutes the entire agreement made between E2E and the Customer regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing. The Customer acknowledges that it has not been induced to enter into this agreement by any representation whatsoever made by or on behalf of E2E.

- 15.1 Your Information
- 15.2 The Customer agrees that E2E may retain, process and use information collected from the Customer's order for the purposes of processing the order.
- 15.3 Upon the Customer's written request E2E shall provide to the Customer a copy of the Customer's information retained by E2E and E2E may charge an administrative fee for doing so. The Customer must notify E2E of any incorrect information.
- 15.4 The Customer acknowledges that information collected by E2E about the Customer may be disclosed to a credit reporting agent.
- 15.5 The Customer agrees that E2E may disclose information derived from any credit report in its possession to any other credit provider for the purpose of providing a reference or references to that other credit provider of the conduct of the Customer's accounts.

16 Miscellaneous

- 16.1 The Customer shall not assign or otherwise transfer any of its rights or obligations hereunder whether in whole or in part without the prior written consent of E2E. Any such unauthorised assignment shall be deemed null and void.
- 16.2 If any condition or part of any condition is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the condition (or where possible, the offending part) is to be severed from these conditions of sale without affecting the enforceability, validity or legality of the remaining conditions (or parts of those condition) which will continue in full force and effect.
- 16.3 The Customer will indemnify E2E on a full indemnity basis for all costs fees and expenses incurred by E2E in the enforcement of any of these terms and conditions.