

STANDARD PURCHASE ORDER TERMS AND CONDITIONS

1. DEFINITIONS

In these Conditions of Purchase Order ("Conditions"), unless the context requires otherwise:-

ESTA	means Emergency Services Telecommunication Authority (ABN:42 630 709 818)
Completion Date	means the date (and time, if applicable) specified in the Purchase Order as the 'Date Required' by which the Services are to be performed by the Supplier (time being of the essence) or if no date is specified, within a reasonable time having regard to normal commercial practice.
Supplier	means the Supplier specified in the Purchase Order.
Delivery Date	means the date (and time, if applicable) specified in the Purchase Order as the 'Date Promised' by which the Goods are to be supplied to ESTA by the Supplier (time being of the essence) or if no date is specified, within a reasonable time having regard to normal commercial practice.
GST	means the goods and services tax imposed under the A New Tax System (Goods & Services Tax) Act 1999. Words defined in that Act have the same meaning in these Conditions.
Goods	means the goods (if any) specified in the Purchase Order.
Purchase Order	means the Purchase Order to which these Conditions apply.
Services	means the services (if any) specified in the Purchase Order.
Site	means the location nominated by ESTA as the shipping address for the Goods and/or the location of the supply of the Services as specified in the Purchase Order.

2. Subject to paragraph 2, these Terms and Conditions incorporate by reference the terms of the ESTA Short Form Agreement for the Provision of Goods and Services, a copy of which we have provided to you (the Agreement). To the extent that the Agreement is inconsistent with these Terms and Conditions, these Terms and Conditions prevail. Terms which are capitalised but not defined in these Terms and Conditions are defined in the Agreement. These Terms and Conditions together with the Agreement set out the entire agreement between the Supplier and ESTA with respect to the supply of the relevant Goods or Services.
3. If at the time the Goods or Services are ordered by ESTA from the Supplier there is already a contract in existence between ESTA and the Supplier which is signed by both parties which expressly governs the supply of such Goods or Services, then to the extent of any inconsistency, that contract will prevail and apply to the supply of Goods and Services to the exclusion of these Terms and Conditions and the Agreement.
4. **FORMATION OF CONTRACT**
 - 4.1 A Purchase Order issued by ESTA to the Supplier constitutes an offer by ESTA to engage the Supplier to supply the Goods and/or the Services described in the Purchase Order on the terms set out in the Purchase Order and these Conditions.
 - 4.2 A contract for the supply of the Goods and/or the supply of the Services ("**Contract**") is formed between ESTA and the Supplier when the Supplier:
 - a) Communicates either in writing or verbally with ESTA, the content of which confirms or implies acceptance; or:
 - b) Dispatches the Goods and/or commences performance of the Services.
 - 4.3 The Contract consists solely of the Purchase Order. No terms or conditions sought to be imposed by the Supplier before or after placement of the Purchase Order (including terms incorporated into any tender, offer, counteroffer or proposal made by the Supplier) will apply, unless expressly accepted in writing by ESTA.
5. **SUPPLY OF GOODS AND/OR SERVICES**
 - 5.1 The Supplier will supply to ESTA the Goods by the Delivery Date and/or the Services by the Completion Date.
 - 5.2 The Supplier must comply with the terms of this Contract.
 - 5.3 Goods supplied by the Supplier must:
 - a) Comply with the specification or description in the Purchase Order
 - b) Be new (unless otherwise specified in the Purchase Order) and of recent origin;
 - c) Be free from defects in design, manufacture and assembly;
 - d) Be of merchantable quality and fit for the purpose for which they are ordinarily acquired;
 - e) When used properly, be safe and not endanger health; and
 - f) Otherwise be in accordance with all relevant standards, laws and regulations.
 - 5.4 Services supplied by the Supplier must:
 - a) Comply with the specification or description in the Purchase Order;
 - b) Be performed with due skill, care and attention in a safe and diligent manner;
 - c) Be performed by personnel who are qualified, licensed, competent and experienced in providing the Services and by the key personnel (if any) specified in the Purchase Order;
 - d) Be performed in a timely manner and in accordance with the program or timetable, if any, specified in the Purchase Order (time being of the essence); and
 - e) Be performed in accordance with all applicable laws, codes and standards.
 - 5.5 All documentation (including drawings and reports) supplied by the Supplier in relation to the Goods as part of the Services shall be accurate, comprehensive and complete.
6. **PRICE AND PAYMENT**
 - 6.1 Unless otherwise specified in the Purchase Order:
 - a) The Price is fixed and not subject to rise and fall for labor or material costs or any other adjustment; and
 - b) The Price is inclusive of:
 - a. all necessary packaging and delivery costs;
 - b. all excise, duties or taxes (including related penalties and any government imposed greenhouse gas emissions trading scheme or greenhouse gas emissions reporting obligation) levied or assessed by government, or otherwise payable, in respect of the Goods, Except for GST;
 - c. All charges for supply of the Goods (and no additional charges will be raised for inspection, testing, packaging, Delivering, insurance or equipment); and
 - d. All amounts payable for the use of intellectual property (including licenses) and moral rights consents.
 - 6.2 Subject to these Conditions, ESTA will pay the Price to the Supplier for supply of the Goods or performance of the Services. Payment will be made by electronic funds transfer or cheque.

- 6.3** If any supply made pursuant to a Purchase Order is a Taxable Supply, ESTA will pay to the Supplier the GST in respect of that Taxable Supply.
- 6.4** The Supplier must submit to ESTA a valid tax invoice specifying:
- a) The relevant Purchase Order number;
 - b) The Goods supplied and/or the Services performed as at the date of the invoice;
 - c) The Site and date of performance of the Services and/or delivery of the Goods;
 - d) Where Services are charged on a time basis, the actual hours spent by individual personnel performing the Services; and
 - e) Such other particulars as are necessary to enable ESTA to obtain input tax credits for the amount of GST payable.
- 6.5** By submitting an invoice to ESTA, the Supplier warrants that:
- a) The specified Goods and/or Services have been supplied in accordance with the Contract; and
 - b) The amounts specified in the invoice are accurate and ESTA is entitled to payment of the amount claimed.
- 6.6** ESTA will make payment to the Supplier within 30 days of receipt of the invoice.
- 6.7** ESTA may deduct and set off from any moneys due to the Supplier any sum which is payable by the Supplier to ESTA.

7. DELIVERY OF GOODS

- 7.1** If specified in the Purchase Order, ESTA will arrange for the Goods to be collected from the Supplier, in which case delivery is taken to occur upon commencement of loading of the Goods onto the transport arranged ESTA.
- 7.2** If specified in the Purchase Order, the Supplier must, at its own cost and risk, deliver the Goods by the Delivery Date. Deliveries are to be made at the time and at the Site specified in the Purchase Order, unless otherwise agreed in writing. Time is of the essence for delivery of the Goods. If this clause 5.2 applies, delivery is taken to occur upon completion of offloading by the Supplier.
- 7.3** The Supplier must, at its own cost, ensure the Goods are adequately and securely packed to avoid damage or destruction during transit including marking and delivering the Goods.
- 7.4** If clause 5.2 applies, where Goods are lost or damaged in transit, the Supplier will replace them at no cost to ESTA.
- 7.5** The Supplier shall provide sufficient documents to enable ESTA to identify the nature and quantity of Goods delivered including a material safety data sheet in accordance with, and if required by, the National Code of Practice for the Preparation of Material Safety Data Sheets. All delivery documents must include a delivery docket which must state:
- a) The Purchase Order number;
 - b) A description of the Goods delivered; and
 - c) The quantity of Goods.
- 7.6** Title in the Goods passes to ESTA upon the earlier to occur of delivery in accordance with the Contract or payment by ESTA for the Goods.
- 7.7** Unless otherwise specified in the Purchase Order, risk in the Goods is taken to pass at the time of delivery in accordance with the Contract. If the Purchase Order specifies the point of delivery by reference to Incoterms, risk is taken to pass at the time specified in the applicable Incoterm in Incoterms 2010

8. INSPECTION, TESTING AND DEFECTS

- 8.1** ESTA may inspect and test the Goods. Inspection and testing may be undertaken after the Goods are unpacked by ESTA or when Goods are installed into ESTA's plant or premises. If, after an inspection or test, the Goods are found to be defective or otherwise fail to comply with these Conditions, ESTA may (without prejudice to its rights) return the Goods to the Supplier at the Supplier's expense. Upon return, the Supplier shall reimburse ESTA for the Price paid by ESTA for the Goods and any costs incurred by ESTA in returning the Goods to the Supplier. These activities will be conducted within 7 days of receipt.
- 8.2** If any Goods are returned under clause 7.1, risk will revert to the Supplier upon return and title will revert to the Supplier upon reimbursement of the Price by the Supplier.
- 8.3** Satisfactory inspection and/or testing of the Goods.
- a) Release the Supplier from liability in relation to any inherent defects or inadequacies in the Goods which were not actually identified during inspection or testing;
 - b) Release or waive warranties given by the Supplier in relation to the Goods; or
 - c) Otherwise relieve the Supplier of any of its obligations to perform the Contract.
- 8.4** The Supplier must ensure that all warranties applicable to the Goods are transferred to ESTA.
- 8.5** If in the reasonable opinion of ESTA the Services performed by the Supplier do not meet the requirements of the Contract, the Supplier shall upon request by ESTA promptly re-perform the deficient part of the Services at its own cost. If the Supplier fails to do so, ESTA may have the deficiency rectified by others and recover the costs of doing so from the Supplier.

8.6 Nothing in this clause reduces or otherwise affects the Supplier's obligations or ESTA's rights under this Contract or the law.

9. COMPUTER SOFTWARE

Where the Goods incorporate computer software, the Supplier warrants that:

- (a) the software is free from malware, trojan horse, bugs, worms or any other defects that are intended to, or do, damage or interfere with the proper working of the software;
- (b) any software maintenance, upgrade, patch or fix supplied by the Supplier for the software will comply with subparagraph (a) and will be compatible with the existing version of the software; and
- (c) ESTA's use of the software will not infringe the intellectual property or moral rights of any person.

10. SITE EXAMINATION AND INDUCTIONS

10.1 The Supplier is deemed to have examined the Site and its surrounds and accepted responsibility for any additional costs, losses and expense arising out of the physical conditions and characteristics of the Site.

10.2 The Supplier (and any employee, agent or subcontractor of the Supplier) must:

- a) Complete all relevant inductions as required by ESTA prior to commencing performance of Services at the Site;
- b) At all times while performing the Services at the Site, comply in full with the Site work Conditions including obtaining a "temporary pass" before entering the Site;
- c) Use its best endeavors not to interfere with the
 - i. Company's activities on the Site; and
- d) Ensure that it does not leave rubbish or debris when delivering the Goods and/or performing the Services.

11. INSURANCE

Unless otherwise specified in the Purchase Order, the Supplier must hold insurances a prudent supplier of the Goods and/or Services would hold including:

- a) Insurances to cover physical loss or damage to the Goods;
- b) Public liability insurance of not less than \$5 million;
- c) Comprehensive motor vehicle insurance of not less than \$1 million;
- d) Workers compensation insurance as required by law; and
- e) Any other insurance reasonably required by ESTA

12. WARRANTIES

12.1 The Supplier warrants and represents to ESTA that:

- a) It has unencumbered title to all Goods;
- b) use of the Goods by ESTA will not infringe the intellectual property, moral or other rights of any third party;
- c) it, and any person performing the Contract on its behalf, holds and will maintain all requisite licenses, permits and authorities relevant to the supply of the Goods and/or Services;
- d) It holds all relevant import licenses, consents or authorities necessary for performance of the Contract; and
- e) All performance data, measurements and Specifications quoted in brochures, quotations or tenders are accurate within the tolerances (if any) specified in those documents

13. INDEMNITY

13.1 The Supplier shall indemnify ESTA against any and all claims, liabilities, losses, damages or penalties in respect of:

- a) Any loss of or damage to real or personal property owned by ESTA or any other party;
- b) Any personal injury or death sustained by any person,

Arising in any way out of the Supplier's performance of the Contract or any breach by the Supplier of its obligations under the Contract.

13.2 Every indemnity, exemption, limitation, defense, immunity or other benefit contained in the Contract to which ESTA is entitled will also be held by ESTA on trust for the benefit of, and will extend to protect, each of ESTA's personnel and ESTA Group members.

13.3 Each indemnity in the Contract is a continuing obligation separate and independent from the Supplier's other obligations and survives expiry or termination of the Contract.

14. INTELLECTUAL PROPERTY

14.1 Unless otherwise specified in the Purchase Order, all intellectual property produced by the Supplier under the Contract shall vest in ESTA upon creation. If necessary, the Supplier must (and ensure its relevant personnel) assign or transfer all intellectual property to ESTA. The Supplier must (and ensure its relevant personnel) sign all documents and do anything else required

To give effect to the assignment or transfer or moral rights consents under clause 13.1 or 13.2 (as applicable). ESTA grants to the Supplier an irrevocable and payment-free license to use the intellectual property for the purpose of performing the Services. The Supplier grants to ESTA an irrevocable, perpetual, worldwide and payment free license to use any intellectual property not vested in ESTA that is necessary for ESTA to have the benefit of the supply provided under the Contract.

14.2 The Supplier (if an individual) consents and must procure the consent of any other individual involved in producing any intellectual property referred to in this clause 12, to any act or omission by ESTA in using the intellectual property that might otherwise breach the individual's moral rights.

14.3 The Supplier indemnifies ESTA against any claims made by third parties in respect of the use of intellectual property in connection with any Goods and/or Services supplied under the Contract.

15. CONFIDENTIALITY

15.1 Subject to clause 13.2, the Supplier must not, without ESTA's approval, disclose Confidential Information to any third party or use or reproduce Confidential Information other than strictly for the performance of the Contract.

15.2 Clause 13.1 shall not apply to the extent the Confidential Information is:

- a) In the public domain in the form it was disclosed or made available by or on behalf of ESTA (otherwise than as a result of breach of the Contract); or
- b) required to be disclosed by Law (provided the Supplier first advises ESTA of the legal requirement for disclosure and allows ESTA the opportunity to seek orders preventing disclosure).

15.3 The Supplier must establish and maintain effective security to safeguard the Confidential Information and to keep Confidential Information under its control.

15.4 On termination or completion of the Contract, the Supplier must return Confidential Information to ESTA.

15.5 In this clause, "**Confidential Information**" means all documents (including drafts and notes), reports, data or information of any kind, in any form, whether:

- a) Communicated orally or in writing between ESTA and the Supplier in connection with the Contract; or
- b) Created or generated by the Supplier in connection with the Contract

and includes (but is not limited to) financial information, trade secrets, business affairs, suppliers, operations data, drawings, designs, technical information and any other information relating to ESTA's business.

15.6 The Supplier must not make public announcements in relation to this Contract without ESTA's consent.

16. REPORTING

16.1 The Supplier must (at its cost) provide, at ESTA's request:

- a) progress reports setting out, in such detail as ESTA requests, the different stages of design, manufacture and testing of the Goods and/or Services;
- b) A detailed program for the projected supply of the Goods and/or Services;
- c) Any information requested for the audit of the Supplier's personnel for compliance with fatigue management requirements contained in any applicable State or Commonwealth legislation.

17. TERMINATION

17.1 ESTA may terminate the Contract immediately by written notice if:

- a) the Supplier is unable to pay its debts as and when they fall due;
- b) A receiver, administrator or liquidator is appointed, or a meeting of creditors is called, in relation to the Supplier or the Supplier enters into an arrangement with its creditors or otherwise takes advantage of laws in force in relation to insolvent debtors;
- c) The Supplier ceases to carry on business;
- d) there is a change in control (as that term is defined in the Corporations Act 2001 (CT) in relation to the Supplier;
- e) The Supplier or its representatives engage in conduct that, in the reasonable opinion of ESTA, endangers health and safety; or

17.2 If either party breaches an essential term of the Contract, the other party may give notice requiring the breach to be remedied within 14 days. If the breach is not remedied, the party giving the notice may terminate the Contract.

17.3 ESTA may, by notice in writing, terminate the Contract at any time. Upon receipt of a notice of termination under this clause, the Supplier must cease performance of the Contract and take all available steps to minimize loss arising from termination. ESTA will pay the Price for work completed up to the date of termination. ESTA will not be liable for any other damages or compensation for the termination.

17.4 Termination of the Contract does not affect accrued rights or remedies.

18. DISPUTE RESOLUTION

The parties will negotiate to resolve any disputes. If a dispute cannot be resolved within 14 days of first being notified, either party may commence proceedings.

19. ETHICAL BUSINESS CONDUCT

19.1 Each party warrants that neither it nor any person acting on its behalf:

- a) Has made or offered;
- b) Proposes to make or offer; or
- c) Has caused or proposes to cause any third party to make or offer, with respect to the matters that are the subject of the Purchase Order, any payment, gift, promise or other advantage, whether directly or indirectly, including (without limitation) through affiliates or representatives (including representatives of the intended recipient), to or for the use of any public official, where such payment, gift, promise or advantage would violate:
- d) The applicable laws of the country in which the activities under the Purchase Order are taking place;
- e) The laws of the country of incorporation of such party;
- f) The principles described in the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; or
- g) The laws of any other country.

19.2 Each party warrants that neither it nor any person acting on its behalf:

- a) has made, or proposes to make, any payment in Australia to, by the order of, or on behalf of a person or entity sanctioned by the Reserve Bank of Australia pursuant to regulation 8(1)(a) of the Banking (Foreign Exchange) Regulations 1959 (CT); or
- b) Has breached, or proposes to breach, the Charter of the United Nations Act 1945 (CT) or regulations made under that Act.

19.3 The obligations in this clause 18 are continuing and survive the completion, termination or expiry of this Contract.

20. GENERAL

20.1 The relationship between ESTA and the Supplier is one of principal and independent contractor. Nothing in this Contract shall create a relationship of joint venture, trust, employment, agency or partnership. The Supplier does not have authority to contract with third parties on behalf of ESTA or to otherwise bind ESTA, unless ESTA's prior written consent is provided.

20.2 The Supplier must not subcontract, assign or novae any rights or obligations under the Contract without the prior written consent of ESTA. The Supplier hereby consents to ESTA assigning or notating any or all of its rights or obligations under this Contract at any time to any person.

20.3 The Supplier acknowledges that ESTA may contract with any other party to supply like goods or services and no exclusive relationship exists or is to be implied by the Contract.

20.4 Any variation to the Contract must be approved by ESTA's procurement contact named in the Purchase Order.

20.5 The Supplier acknowledges and agrees that it will not register any security interest in relation to this Purchase Order against ESTA on any register maintained under the Personal Property Securities Act 2009 (CT).

20.6 This Contract is governed by the laws of Victoria and each party submits to the non-exclusive jurisdiction of Courts of that state.

20.7 Neither party is taken to have waived any right under the Contract unless the waiver is given in writing and expressed to be a waiver.

20.8 Any notice given under the Contract must be given in writing to the address specified in the Purchase Order in the case of the Supplier and to the following address in the case of ESTA:

20.9 The Contract constitutes the entire agreement between ESTA and the Supplier in relation to its subject matter.