

## Terms & Conditions of Supply of Goods & Services

These Terms & Conditions apply to the provisions of Goods and Services by SRO to the Customer

### 1. Term

- 1.1 This Agreement will remain in force for:
  - 1.1.1 the Term specified in any Agreement or PO between SRO and the Customer; or
  - 1.1.2 if no Term is specified, for the period SRO continues to supply Goods and/or Services to the Customer.

### 2 Quotation

- 2.1 Unless stated otherwise, quotations submitted by SRO will remain valid for thirty (30) days from the date of the quotation. After this time, SRO may adjust the price in the quotation and revalidate.
- 2.2 SRO may, by written notice, withdraw a quotation at any time.

### 3 Requesting Goods and Services

- 3.1 A request for Goods and Services must be made by the Customer submitting a PO to SRO.
- 3.2 The request is deemed to be accepted unless SRO notifies the Customer in writing that the PO has been rejected within 10 Business Days of receipt.

### 4 Supply of Goods and Services

- 4.1 Goods and Services will be provided by SRO as detailed in the PO.
- 4.2 SRO will use its reasonable efforts to provide the Goods and Services with due care and skill, using suitably qualified personnel and resources and in accordance with best industry practices. Where applicable, the services will comply with the requirements of the National Measurement Act 1960.
- 4.3 The Customer warrants that it does not intend to use the Goods and/or Services predominantly for personal, domestic or household purposes.

### 5 Payment and Price

- 5.1 The Customer must pay the Price for the Goods and Services as set out in any:
  - 5.1.1 PO;
  - 5.1.2 quotation; or
  - 5.1.3 invoice,
 as issued by SRO from time to time.

- 5.2 Services shall be charged at SRO's standard rates.

- 5.3 Delivery of goods are Incoterms Ex Works Brisbane.

- 5.4 SRO may charge additional Service fees for:
  - 5.4.1 travel;
  - 5.4.2 work undertaken outside the business hours described in **Error! Reference source not found.** which shall be charged at a minimum of 4 hours;
  - 5.4.3 overtime where Services exceed 7.5 hours;
  - 5.4.4 spare or replacement parts and/or components. SRO shall notify the Customer before incurring additional fees described in this subclause;
  - 5.4.5 underground work.

- 5.5 Services will be carried out during SRO's normal business hours being 06:00hrs to 18:00hrs Monday to Friday, excluding Public Holidays.

- 5.6 SRO may vary any fees and charges of any Services on written notice to the Customer.

- 5.7 Payments are to be made without deduction or set off of any kind. Where part of an invoice is in dispute the Customer must pay the undisputed part of the invoice.

- 5.8 Time of payment is of the essence of the Contract. Without prejudice to any other rights or remedies SRO may have under the Contract, SRO may:
  - 5.8.1 charge interest on any overdue amounts pursuant to the rate specified in s101 of the Civil Procedure Act 2005 (NSW);
  - 5.8.2 Charge an administration fee of \$110 for each and every follow up in relation to overdue amounts.

- 5.9 The Customer indemnifies SRO on demand against all costs, charges, expenses and legal costs incurred by SRO in recovering sums owed by the Customer.

- 6 **Trade Credit**

- 6.1 The Customer acknowledges that:
  - 5.8.1 charge interest on any overdue amounts pursuant to the rate specified in s101 of the Civil Procedure Act 2005 (NSW);
  - 5.8.2 Charge an administration fee of \$110 for each and every follow up in relation to overdue amounts.

- 5.9 The Customer indemnifies SRO on demand against all costs, charges, expenses and legal costs incurred by SRO in recovering sums owed by the Customer.

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- 5.9 The Customer indemnifies SRO on demand against all costs, charges, expenses and legal costs incurred by SRO in recovering sums owed by the Customer.

### 6 Trade Credit

- 6.1 The Customer acknowledges that:



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- 6.1.1 the supply of Goods and/or Services on credit shall not take effect until the Customer has completed SRO's credit application form and it has been approved with a credit limit established for the account;
- 6.1.2 SRO may request financial information about the Customer and/or its officers to assess its initial and ongoing credit worthiness. SRO may seek personal guarantees in connection with the credit application.
- 6.1.3 in the event that the supply of Goods and/or Services requested exceeds the Customers credit limit and/or the account exceeds the payment terms, the Customer must immediately pay these amounts which will be a debt due and owing on demand. In such event SRO reserves the right to suspend the provision of Goods and/or Services until such time as the Customer's account is within its credit limit or an overdue amount is paid.
- 7 Defects**
- 7.1 The Customer must notify SRO of any defect in the Goods or Services, within 15 Business Days of either:
- 7.1.1 The Goods having been delivered; or
- 7.1.2 The Services having been provided,
- A failure to do so will result in the Customer being deemed to have accepted the Good and/or Services.
- 8 Site access**
- 8.1 The Customer must ensure that SRO has clear and free access to the Site at all times to perform the Services. The Customer must indemnify SRO against any Loss suffered by the Customer due to the Customer's failure to comply with this clause 7.1.
- 8.2 SRO shall not be liable for any Loss or damage to the Site unless directly caused by the negligence of SRO.
- 8.3 The Customer is responsible for preparation of the Site, including but not limited to any building work, excavation work, core drilling or any other non-standard surface penetrations required to enable SRO to perform the Services.
- 8.4 At the direction of SRO, the Customer must erect scaffolding to enable the Services to be undertaken. Erection of any scaffolding must comply with industry safety standards and must be erected by a suitably qualified tradesperson with the required certificate of competency and/or licenses.
- 8.5 The Customer must ensure the Site is equipped with all necessary services and amenities to enable Enwise E to provide the Services.
- 8.6 The Customer must notify SRO of any requirements for accessing the Site, and SRO will ensure that its personnel comply with those requirements, including any work, health and safety requirements. The Customer must also notify SRO of any changes in requirements.
- 9 Cancellation or Variation**
- 9.1 SRO may vary or adjust the Price for the Service where there has been a change of scope. Such variation will be agreed in writing by the parties.
- 9.2 SRO requires no less than 48 hours written notice if the Customer seeks to cancel a Service. A failure to do so will result in the Customer being charged at the Price of out-of-pocket expense to SRO Technology +20%.
- 9.3 Cancellation by the Customer for Goods ordered will dealt with as follows:
- 9.3.1 Cancellation of Goods in stock - they will incur a cancellation charge of 50% of the price of the Good.
- 9.3.2 Cancellation of orders for Goods which have been made to the Customer's specifications – forfeit of the deposit, any part of the Price paid, plus any work in progress not covered by the deposit or part Price paid.
- 9.3.3 Cancellation of Goods that are not in stock or for non-stocklist items – 50% of the price of the Goods.

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### 10 Delivery

- 10.1 Any date nominated for the delivery of Goods are estimates only.
- 10.2 SRO will provide notice to the Customer of any anticipated or actual delay and use commercially reasonable efforts to mitigate the delay.
- 10.3 SRO will not be liable to the Customer for any Loss resulting from a delay in delivery of the Goods.
- 10.4 The Customer must accept and take delivery of the Goods on a date notified by the SRO. The Customer will indemnify SRO against Loss arising from its unwillingness or inability to accept delivery of the Goods. Furthermore, SRO may charge the Customer further charges to effect re-delivery. These fees are a debt due on demand.

### 11 Title and Risk

- 11.1 Risk in the Goods passes to the Customer on delivery to the Site including risk of Loss and damage.
- 11.2 Title in the Goods will pass on full payment of the Prices and payment of any other amounts owed under these Terms in relation to the Prices owing for the Goods.
- 11.3 Until paid in full, the Customer will not part with possession of the Goods (or any part thereof) or otherwise sell, assign, mortgage, pledge or grant or register a security interest over, lend or otherwise deal with the Goods, and must keep the Goods in a manner where they are easily identifiable as the property of SRO and ensure that they are undamaged and in good working condition.

### 12 Warranty and Claims

- 12.1 The warranties provided by the Company for goods and services ("Warranties") are conditional upon the installation of the goods being performed directly by the Company (SRO) or through an authorized representative of SRO. These Warranties shall only remain valid and enforceable if the installation of the goods is executed by SRO or an individual or entity expressly authorized by SRO to conduct such installations. Any installations conducted by parties not officially

recognized as authorized representatives of SRO will render these Warranties null and void.

- 12.2 Subject to clause **Error! Reference source not found.**, no warranty or guarantee is given by SRO whatsoever regarding the quality, condition, specifications, merchantability, or fitness for purpose of the Goods, except as required under the Australian Consumer Law.
- 12.3 Notwithstanding clause **Error! Reference source not found.** SRO provides the warranties specified in any PO, if none are specified, manufacturer's warranty is 12 months from:
  - 12.3.1 30 days after the delivery date, or
  - 12.3.2 upon the date of installation, whichever is earlier, and ending the earlier of 12 months thereafter.
- 12.4 Any warranty in provided for in clause **Error! Reference source not found.** will only apply to Goods which have:
  - 12.4.1 been correctly installed in accordance with the manufacturer's instructions and commissioned by SRO or an authorised representative of SRO;
  - 12.4.2 been transported, stored, installed and operated in accordance with good industry practice and have been maintained using SRO supplied parts and components;
  - 12.4.3 sufficient lightning protection and are connected to the specified utility voltage;
  - 12.4.4 not been subjected to misapplication, abuse, improper installation or abnormal conditions of temperature, contamination or corrosive matter;
  - 12.4.5 not been operated, either intentionally or otherwise, outside of design capacities, in conjunction with inadequate supporting or interconnected equipment, or in an otherwise improper manner, or under conditions differing from those mining, geological and other conditions disclosed by Customer to SRO, including without limitation

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- the conveyed material, and chemical properties of water;
- 12.4.6 not been repaired or in any way tampered with or altered by anyone other than an authorised representative of SRO; and
- 12.4.7 not been damaged in shipment or otherwise without fault of SRO.
- 12.5 Unless otherwise agreed by SRO, a Customer making a warranty claim under clause **Error! Reference source not found.** will, at its own cost, return the Goods to SRO for inspection and rectification works (if any) as well as pay for return shipping/freight. In the event SRO deems that a warranty claim can be made and the Customer is not at fault, SRO will return the Goods to the Customer at no charge and refund the Customer for the original shipping costs to return the Goods to SRO.
- 13 Installation and/or Calibration of Goods**
- 13.1 Goods sold by SRO that require installation and/or calibration will be done so by a suitably qualified SRO technician.
- 13.2 Following installation and calibration, the Customer uses the Goods at its sole risk.
- 13.3 SRO accepts no responsibility or liability for consequences arising from any improper installation or calibration of the Goods by a third party (other than an SRO accredited or authorised subcontractor).
- 13.4 The Customer acknowledges that it is its responsibility to ensure the Goods are calibrated in accordance with law, the manufacturers' instructions or in line with standard industry practices.
- 14 Insurance**
- 14.1 The Customer must, at its own cost, obtain and maintain at all material times, a general third-party liability (public risk) insurance policy against any liability arising out of or in connection with the Site. The insurance policy will have a minimum cover of \$20 million for any one occurrence.
- 15 Force Majeure**
- 15.1 SRO will not be liable for any delay or failure to perform its obligations under this agreement or any PO if the delay or failure is due to a Force Majeure. In the case of a Force Majeure, SRO will provide notice to the Customer and performance of its obligation will be suspended for so long as such event or condition subsists.
- 15.2 SRO will not be liable to the Customer for any Loss arising from or in connection with a Force Majeure event, including Loss sustained as result of delays in provision of Goods and/or Services.
- 16 Exclusion and Limitation of Liability**
- 16.1 The limitations of liability set out in this Agreement are subject to the Consumer Guarantees conferred by the Australian Consumer Law, to the extent that those Consumer Guarantees cannot be excluded or limited.
- 16.2 Subject to clause **Error! Reference source not found.**, SRO's liability for any Loss suffered or incurred by the Customer, howsoever caused, which arises out of or in connection with the supply of the Services or Goods is limited at SRO's election as follows:
- 16.2.1 In the case of Goods, to the repair, replacement or a credit for the Price paid by the Customer for the Goods;
- 16.2.2 In the case of the Services, to the re-supply of the Services or a credit for the Price paid by the Customer for the Services.
- 16.3 Subject to clause **Error! Reference source not found.**:
- 16.3.1 SRO excludes any liability for Consequential Loss, however arising;
- 16.3.2 Subject to clause **Error! Reference source not found.**, all other conditions, warranties and implied terms, whether statutory or otherwise, are excluded in relation to the Goods and/or Services;
- 16.3.3 SRO is not liable to the Customer for any Loss which the Customer suffers, incurs or is liable for in connection with the supply of Goods and/or Services under this Agreement, except in accordance

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- with clauses **Error! Reference source not found.** to **Error! Reference source not found.** herein.
- 16.4 The Customer releases SRO, its related bodies corporate, employees, agents and contractors against any Loss resulting from the supply of Good and/or Services (as applicable), other than as a result of its negligence or breach of these Terms.
- 16.5 The Customer will indemnify SRO, its related bodies corporate, employees, agents and contractors against any Loss resulting from:
- 16.5.1 A breach of this Agreement by the Customer, its employees, agents or contractors, including the Loss incurred by SRO under clause 52;
  - 16.5.2 Any negligent or wilful act or omission by the Customer, its employees, agents or contractors;
  - 16.5.3 Any action or trespass resulting from SRO entering a Site in accordance with clause **Error! Reference source not found.**
- 17 Termination**
- 17.1 SRO may terminate this Contract immediately by notice to the Customer if an Event of Default occurs in respect of the Customer.
- 17.2 The Customer may terminate their obligations under this Contract in the event of a substantial breach by SRO of their obligations hereunder, which breach has not been remedied within 30 days of written notice from the Customer requiring the breach to be remedied.
- 17.3 SRO will not be liable to the Customer for any Loss (including Consequential Loss) or damage the Customer suffers because SRO has exercised its rights under clause **Error! Reference source not found.**
- 17.4 SRO may terminate this agreement for convenience by giving [15 Business Days] written notice to the Customer. On giving such notice SRO shall repay to the Customer any sums paid in respect of the Price, less any amounts owing by the Customer to SRO for Services already performed. SRO shall not be liable for any Loss (including Consequential Loss) or damage whatsoever arising from such termination.
- 18 Dispute Resolution**
- 18.1 A party must not start arbitration or court proceedings in respect of a dispute arising out of this Agreement (“Dispute”) unless it has complied with this clause.
- 18.2 A party claiming that a Dispute has arisen must notify the other party in writing (Notice) within 30 days of becoming aware of the matter the subject of the Dispute.
- 18.3 If the Dispute cannot be resolved within 15 Business Days (unless this period is extended by mutual agreement in writing) from the date it is submitted for mediation, then the Dispute must be resolved by arbitration in accordance with the Resolution Institute Arbitration Rules 2016.
- 18.4 Where the Customer is resident outside of Australia, the Dispute may be submitted to mediation in accordance with, and subject to, the Australian Centre for International Commercial Arbitration (ACICA) Mediation Rules. The mediation must take place in Sydney, Australia and be administered by ACICA.
- 18.5 (Any arbitration is governed by, and all Disputes must be resolved according to, the laws of New South Wales. There is to be one arbitrator. The place of arbitration is Sydney, New South Wales, Australia. The language of the arbitration must be English. The decision of the arbitrator (including any award as to costs) will be final and binding.
- 19 Confidentiality**
- 19.1 Each party may only use Confidential Information belonging to the other party as strictly necessary for the purposes of fulfilling its obligation under this Agreement but must not disclose Confidential Information to a third party without the prior written consent of the disclosing party.
- 19.2 A party in receipt of Confidential Information may disclose it without prior written consent of the disclosing party where disclosure is required by law or made to its legal advisors, accountants,



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auditors and insurers for legitimate business purposes.

- 19.3 If the disclosing party requests that the receiving party return or destroy Confidential Information in its possession, the receiving party must comply with that request but will be entitled to retain one copy of such information to enable it to comply with its record keeping obligations imposed by law.

### **20 Intellectual Property**

- 20.1 Nothing in this Agreement is to be construed as effecting a transfer of any Intellectual Property rights from the SRO to the Customer.

### **21 GST**

- 21.1 If GST is imposed on any supply made under this Agreement, the Customer must pay to SRO an amount equal to the GST payable on or for the taxable supply, subject to receiving a valid tax invoice in respect of the supply. Payment of the amount must be made at the same time as payment for the taxable supply is required to be made under this Agreement.

### **22 Personal Properties Security Act**

- 22.1 The Customer agrees that this Agreement creates a security interest in favour of SRO over any personal property, and SRO may apply for any registration, or give any notification, in connection with that security interest and the Customer must promptly, do anything (including signing or producing documents, getting documents completed or signed, obtaining consents and supplying information) to:
- 22.1.1 Provide more effective security over the relevant personal property;
  - 22.1.2 Ensure that the security interest is at all times, enforceable, perfected and/or effective; and ranks as a first priority security interest;
  - 22.1.3 enable SRO to prepare and register a financing statement or a financing change statement or give any notification in connection with the security interest;
  - 22.1.4 enable SRO to exercise any of its rights or perform any of its

obligations in connection with such security interest or under the PPSA.

- 22.2 If Chapter 4 of the PPSA would otherwise apply to the enforcement of the security interest created under this Agreement, the Customer agrees to the extent that it is permitted by law, the following provisions will not apply: a) Section 95 (notice of removal of accession), to the extent that it requires SRO to give notice to the Customer; b) Section 121(4) (enforcement of liquid assets – notice to grantor); c) Section 125 (obligation to dispose or retain collateral); d) Section 130 (notice of disposal), to the extent that it requires SRO to give such notice, e) Section 132(3)(d) (content of statement of account after disposal); f) Section 132(4) (statement of account if no disposal); g) Section 142 (redemption of collateral); h) Section 143 (reinstatement of security agreement).

- 22.3 SRO does not need to give the Customer any notice required under the PPSA (including a verification statement under section 157 of the PPSA) unless the requirement cannot be excluded.

### **23 Subcontracting**

- 23.1 SRO may subcontract performance of its obligations under this Agreement or any part of it without notice at any time.

### **24 Notices**

- 24.1 Any notice required to be given by a party under this Agreement may be sent to the postal or email address of the party.
- 24.2 A notice shall be deemed to be given 5 Business Days after it was dispatched by post or immediately by email unless the sender receives a return email notification advising that the email was not delivered for any reason.
- 24.3 A notice received after 5pm (the recipient's time) is taken to have been received on the next Business Day.

### **25 General**

- 25.1 SRO may add to or vary these Terms on notice to the Customer.
- 25.2 A waiver under this Agreement cannot be waived except in writing by a party.

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25.3 SRO may assign this Agreement on notice to the Customer. The Customer may only assign this Agreement or any part of it with SRO's prior written consent.  
Compliance with Laws

25.4 The Customer will at its own cost comply with all Acts, Regulations, policies, by-laws relating to the operation of the Goods and will obtain such licences, permits and/or approvals which may be necessary for its installation and/or operation.

25.5 The parties are independent contracting parties and nothing in this Agreement makes either party the agent or legal representative of the other; nor grants either party any authority to assume or create an obligation on behalf of the other.

25.6 This Agreement will be governed and construed according to the laws of the jurisdiction specified in the PO. Where no jurisdiction is specified in the PO, this Agreement will be construed in accordance with the laws of New South Wales and the parties will submit to the jurisdiction of the Courts of New South Wales.

### 26 Definitions

**'Agreement'** means the contract for the supply of Goods and/ or Services between SRO and the Customer, comprising these Terms and the PO to the exclusion of all other terms and conditions.

**'Australian Consumer Law'** means Schedule 2 of the Competition and Consumer Act 2010 (Cth) and the corresponding provisions of the relevant State and Territory fair trading legislation;

**'Business Day'** means Mondays to Fridays, but excluding a public holiday, in the State in which the Site is located;

**'Confidential Information'** means the terms of this Agreement and any information in relation to either SRO or the Customer's business, operations, finances, plans or customers which is disclosed to the other party in the performance of this Agreement but does not include information that is or becomes public knowledge (other than by breach of this

Agreement) or is in the possession of the other party without restriction on its disclosure;

**'Consequential Loss'** means any loss, damage or costs incurred by a party that is indirect or consequential, as well as loss of revenue, loss of income, loss of production; loss of or damage to goodwill; loss of use; loss of interest; loss arising from claims by third parties; loss of or damage to credit rating; loss of anticipated savings and/or loss or denial of opportunity;

**'Consumer Guarantee'** means any right or statutory guarantee under Division 1 of Part 3-2 of the Australian Consumer Law which cannot lawfully be excluded;

**'Customer'** means a person or entity that acquires Goods and/or Services from SRO, and whose details are set out in the PO and includes the Customer's permitted assign and successors;

**'Force Majeure'** means an event or circumstances beyond the reasonable control of the party affected which prevents that party from complying or performing its obligations under the Agreement; and may include any act of God, riot, act of terrorism, war, invasion, civil war, earthquake, flood, fire, explosion or other natural physical disaster (but excludes any less severe weather conditions); industrial action; pandemic or compliance with any direction of a government authority. It does not include any event, condition or circumstances however arising that impacts a party's obligation or capacity to make a payment that is due and owing under this Agreement;

**'Goods'** means any equipment or goods supplied by SRO to the Customer, including spare and/or replacement parts;

**'GST'** has the meaning defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

**'Intellectual Property Rights'** means all rights in relation to patents, copyright (including moral rights), design, registered and unregistered trademarks, trade secrets, know-how, confidential information and all other intellectual property and any other right to register those rights whether created before or after the date of the Agreement and in all cases for the duration of those rights and any renewal;

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**'Loss'** means any loss, liability, damages, Prices, interest, charges, fines, penalties or expenses (including lawyers' fees and expenses on a full indemnity basis), whether direct, indirect, special, consequential or otherwise;

**'PPSA'** means the Personal Property Securities Act 2009 (Cth);

**'PO'** means any purchase order issued by SRO.

**'Price'** means fees and charges payable for the Goods and/ or Services to be provided by SRO to the Customer, as specified in the PO;

**'Services'** means the services described in the PO to be delivered by SRO, and includes the performance of all reasonably incidental and other services, and the provision of all materials and equipment, necessary to allow or assist the performance of the Services;

**'Site'** means the address nominated by the Customer in respect of which the Goods or Services are to be supplied;

**'SRO'** means SRO Technology Pty Ltd and the supplier of the Goods and/or Services under this Agreement;

**'Terms'** means these standard Terms and Conditions of Supply of Goods & Services.