

TERMS AND CONDITIONS FOR ACCESSORIES ONLY (FORM 1C)

These terms and conditions (**Standard Terms**) govern the sale and use of Emesent accessories and, together with the confirmation order form a legally binding agreement (**Agreement**) between you (**You, Your**) and Emesent (**Emesent, We, Our or Us**). These standard Terms should only be used for the purchase of accessories, and not for other products, services or software supplied by Emesent.

1. Agreement

- 1.1 By submitting a purchase order to Emesent or otherwise proceeding with the purchase of the Accessories, You agree to be bound by these Standard Terms and any agreements and policies referenced herein.
- 1.2 These Standard Terms take precedence over any terms and conditions proposed, provided, or referenced by You, whether in a purchase order, confirmation, correspondence, or any other document, unless expressly agreed to in writing by Emesent. In the event of any inconsistency or conflict between the agreements governing Your purchase or use of Emesent accessories and/or services, the order of precedence will be as follows:
 - (a) this Agreement, incorporating the Standard Terms, this Confirmation Order and any policies, agreements or procedures referenced in the Standard Terms.
 - (b) Any written quotation provided by Emesent to You in relation to the Accessories (if applicable)
 - (c) Any other Emesent agreements or policies

Any terms and conditions not expressly included in the documents listed above shall have no force or effect

2. Purchase and delivery of accessories

- 2.1 Emesent have agreed in writing to provide You with accessories specified in the Confirmation Order (**Accessories**).
- 2.2 Subject to clause 2.3, Emesent will:
 - (a) provide You with Accessories in accordance with the Agreement.
 - (b) use reasonable endeavours to deliver the Accessories to the agreed delivery location by the agreed delivery time.
- 2.3 You will comply with all Your obligations under this Agreement, including payment of all agreed fees, charges and other amounts.
- 2.4 Unless otherwise agreed by Emesent in writing, all amounts payable by You under this Agreement must be paid in full prior to the delivery of the Accessories.
- 2.5 Emesent may withhold delivery of the Accessories until we receive all amounts owed by You and information or documentation required by Us to supply the Accessories.

- 2.6 Title in the Accessories will remain with Emesent until all fees, charges and other amounts due and payable to Us in relation to the Accessories are paid in full. Risk in the Accessories will pass to You on delivery of the Accessories to the agreed delivery location.
- 2.7 You agree to not create an encumbrance, lien, charge or other interest on or over any Accessories while title is with Us.
- 2.8 You agree that the Agreement, and Your obligations under the Agreement create a registrable security interest in favour of Us, and You consent to the security interest (and any other registrable interest created in connection with this Agreement) being registered on any relevant securities register (and You must do all things to enable Us to do so).
- 2.9 This clause 2 will survive termination or expiry of this Agreement.

3. Warranty

- 3.1 Emesent warrants the performance of the Accessories in accordance with the Standard Warranty (Form 2) available on Our website or on request.
- 3.2 Subject to clause 3.1, to the maximum extent permitted by law, Emesent excludes all representations, warranties, and conditions, whether express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose, and non-infringement.
- 3.3 Nothing in this Agreement is intended to remove, reduce or impede on Your rights under statutory rights You may be entitled to under law, including the Australian Consumer Law or equivalent laws in other jurisdictions.

4. Maintenance, servicing and repairs

- 4.1 You agree to adhere to all instructions and guidance provided by Emesent on the Emesent website in relation to the maintenance, servicing and care of the Accessories.
- 4.2 Technical issues with the operation of the Accessories should be reported to Emesent immediately.
- 4.3 Any product support, replacement, servicing or repairs must be conducted by Emesent unless advised by Emesent in writing. You agree that if You obtain support, replacement, servicing or repairs from anyone other than Emesent it may void any warranty.
- 4.4 You agree that You are responsible for all costs of any support, replacement, servicing or repairs, including delivery and shipping.

5. Confidential Information

- 5.1 Both parties agree to keep all information received from the other party that is marked as confidential, or that should reasonably be understood as confidential, private and secure.

- 5.2 Emesent and You must only use the other party's confidential information to carry out obligations under this Agreement.
- 5.3 Emesent may share the other party's confidential information with employees, contractors, or advisors, but only if they need to know it and are legally required to keep it confidential.
- 5.4 Confidential information does not include information that:
- (a) is already public (unless made public by a breach of this Agreement);
 - (b) was lawfully received from someone else;
 - (c) is independently developed without use of confidential information; or
 - (d) must be disclosed by law or regulation.
- 5.5 If either party is required to disclose confidential information by law, they must (where legally allowed) notify the other party before doing so.
- 5.6 This confidentiality obligation continues even after this Agreement ends.
- 5.7 Liability
- 5.8 Despite anything to the contrary, to the maximum extent permitted by law, We will not be liable for, and You waive and release Us from and against, any liability caused or contributed to by, arising from or connected with Your purchase, use or disposal of the Accessories.
- 5.9 Despite anything to the contrary, to the maximum extent permitted by law:
- (a) neither Emesent or You will be liable for consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise;
 - (b) the liability of either party for any Liability under this Agreement will be reduced proportionately to the extent the relevant Liability was caused or contributed to by its acts or omissions (or those of its personnel), and any failure to mitigate that liability; and
 - (c) our maximum aggregate liability arising from or in connection with this Agreement (including the Accessories or the subject matter of this Agreement) will be limited to, and must not exceed in the aggregate, for all claims, the value of the total amount payable to Us under this Agreement.

6. Indemnity

- 6.1 Despite anything to the contrary, to the maximum extent permitted by law, You are liable for and agree to indemnify, hold harmless, release and discharge, Us in respect of any liability which We may suffer, incur or are otherwise liable for as a result of, or in connection with this Agreement and the purchase, Use and disposal of the Accessories by You, Your personnel and/or any third party.

7. Taxes

- 7.1 All prices quoted are exclusive of all local taxes, including but not limited to GST, VAT, Sales Tax and/or Withholding Tax.
- 7.2 Goods and services supplied to Australian residents or for use in Australia are subject to tax under the GST law.
- 7.3 If You provide assurances to Us that:
- (a) You are a non-resident for Australian income tax purposes;
 - (b) You are not registered or required to be registered for GST purposes in Australia; and
 - (c) You require the goods and services solely for use in its business or operations outside of Australia,

we may rely upon such assurances and treat goods or services supplied to You under this Agreement as GST-free supplies under the GST law.

- 7.4 If goods or services supplied to You are subsequently classified as taxable because any of Your assurances were incorrect, You must reimburse Us on demand for the GST payable (including any interest, fine, penalty or other amount imposed upon Emesent for failing to collect the GST).
- 7.5 If any taxes, excises or duties are imposed then you:
- (a) will bear and pay all deductions and withholdings of any taxes, excises or duties directly to the relevant authorities; and
 - (b) separately pay Us enough to ensure that We receive the full amount of the Fee on the due date.
- 7.6 You are responsible for obtaining any necessary import licences or permits and for paying any customs or import duties or taxes on such importation.

8. General

- 8.1 The Parties agree that nothing in this Agreement constitutes a transfer or assignment of any intellectual property rights, including Emesent's trademarks, know-how, copyright, moral rights or any other intellectual property however constituted.
- 8.2 Despite anything to the contrary in this Agreement or elsewhere, We may monitor, analyse and compile information based on and/or related to Your use of the Accessories, in an aggregated and anonymised format (Analytics). We and Our licensors own all right, title and interest in and to the Analytics and all related software, technology, documentation and content provided in connection with the Analytics, including all intellectual property rights.

- 8.3 You acknowledge and agree that Emesent and You are bound by Our Privacy Policy, which is available on Our website and on request. This clause will survive termination or expiry of this Agreement.
- 8.4 This Agreement may only be amended by written instrument executed by the Parties.
- 8.5 A party must not assign or deal with the whole or any part of its rights or obligations under this Agreement without the prior written consent of the other party (such consent is not to be unreasonably withheld).
- 8.6 This Agreement may be executed in any number of counterparts that together will form one instrument.
- 8.7 If any dispute or claim (including any question regarding its existence, validity or termination) arises out of or in connection with this Agreement (Dispute), either Party may issue a notice to the other Party outlining the dispute or claim (Notice of Dispute). Within 14 days of a Notice of Dispute, senior representatives of the Parties must meet in good faith to resolve the Dispute by negotiation or such other means as they mutually agree. If the parties cannot agree how to resolve the Dispute at that initial meeting, either Party may:
- (a) where the Parties are both located in Australia, refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, either Party may ask the Law Society of Queensland to appoint a mediator. The mediator will decide the time, place and rules for mediation. The Parties agree to attend the mediation in good faith, to seek to resolve the Dispute. The costs of the mediation will be shared equally between the Parties; and
 - (b) where either Party is located outside of Australia, refer the matter to arbitration administered by the Australian Centre for International Commercial Arbitration (ACICA), with such arbitration to be conducted in Brisbane, Queensland, in English and in accordance with the ACICA Arbitration Rules. The costs of the arbitration will be shared equally between the Parties and the determination of the arbitrator will be final and binding.
- 8.8 You agree that We are able to send electronic mail to You and receive electronic mail from you. You release Us from any Liability You may have as a result of any unauthorised copying, recording, reading or interference with that document or information after transmission, for any delay or non-delivery of any document or information and for any damage caused to Your system or any files by a transfer.
- 8.9 We will not be liable for any delay or failure to perform Our obligations under this Agreement if such delay is due to any circumstance beyond Our reasonable control (including but not limited to epidemics, pandemics, and Government sanctioned restrictions and orders, whether known or unknown at the time of entering into this Agreement).
- 8.10 This Agreement is governed by the laws of Queensland, Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Queensland and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.

- 8.11 You agree that We may advertise or publicise the broad nature of Our provision of the Accessories to you, including on Our website or in Our promotional material.
- 8.12 The Accessories will be provided to You on a non-exclusive basis.
- 8.13 Any notice given under this Agreement must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 2 Business Days in the case of post, or at the time of transmission in the case of transmission by email (or, if transmission is not on a Business Day, 9am on the next Business Day).
- 8.14 This Agreement may be executed by means of such third party online document execution service as We nominate subject to such execution being in accordance with the applicable terms and conditions of that document execution service.
- 8.15 This Agreement is not intended to create a partnership, joint venture, employment or agency relationship between the Parties.
- 8.16 If a provision of this Agreement is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from this Agreement without affecting the validity or enforceability of the remainder of that provision or the other provisions in this Agreement.

9. Interpretation

In this Agreement, unless the context otherwise requires:

- (a) a reference to this Agreement or any other document includes the document, all schedules and all annexures as novated, amended, supplemented, varied or replaced from time to time;
- (b) a reference to any legislation or law includes subordinate legislation or law and all amendments, consolidations, replacements or re-enactments from time to time;
- (c) a reference to a natural person includes a body corporate, partnership, joint venture, association, government or statutory body or authority or other legal entity and vice versa;
- (d) no clause will be interpreted to the disadvantage of a party merely because that party drafted the clause or would otherwise benefit from it;
- (e) a reference to a party (including a party) to a document includes that party's executors,
- (f) administrators, successors, permitted assigns and persons substituted by novation from time to time;
- (g) a reference to \$ or dollars refers to the currency of Australia from time to time;
- (h) a reference to a covenant, obligation or agreement of two or more persons binds or benefits them jointly and severally; and
- (i) a reference to time is to local time in Queensland