



TOMCO ELECTRONICS PTY. LTD.

(ACN 057 222 947)

TERMS OF SUPPLY

1 These terms

- 1.1 These terms apply to our supply to you of Product(s) and/or Service(s).
- 1.2 These terms must be read with, and subject to, any proposal, offer, tender or other contract documents between us.
- 1.3 These terms can only be amended by written agreement of both parties.
- 1.4 These terms prevail over any terms put out by you, unless we agree in writing.

2 Quotations

Our quotation is, prior to our actual receipt of your acceptance, subject to change or withdrawal by us. In any event our quotation ceases to be valid after 30 days from its date, unless specified in the quotation.

3 Supply

- 3.1 We may alter our range of Products or Services on offer without notice to you.
- 3.2 An order you give us is subject to our acceptance and we may decline an order.
- 3.3 You may not cancel your order, nor delay delivery, once we accept your order, unless we first agree in writing.

4 Delivery

- 4.1 Products we offer ex-inventory are subject to our prior sale to other buyers.
- 4.2 We will ship the Product to you by air transport on an Incoterms 1990 FCA Adelaide Airport basis.
- 4.3 We will use our best efforts to cause the Product to be delivered to you at the specified time. However, we do not guarantee a particular delivery date and a failure to deliver by a date specified for delivery does not entitle you to cancel your order.

5 Title

Title in the Product remains with us until we receive the price in full.

6 Installation

- 6.1 If applicable, we will install and commission the Product at the specified site on or before the specified time.
- 6.2 If we are to install the Product, you at your expense are responsible to see that the site is ready for us to start work on the specified starting date and that there are appropriate facilities on site for our work.
- 6.3 Any delay in starting or in doing the work that is due to your default will be to your expense.
- 6.4 Upon completion of installation and commissioning, you must issue to us a certificate of acceptance within 7 days.

7 Warranty

We warrant to you that the Product or Service we supply:

- 7.1 in the case of a Product, meets the required specifications and comprises the required components, is free of any defects in materials or workmanship;
 - 7.2 in the case of a Service, is rendered with due care and skill; excluding:
 - 7.3 any fitness for purpose of our Product or any system of which our Product becomes a component (particularly as a result of a custom or novel design required by you), unless we expressly agree that our Product for Service would be fit for your specified purpose;
 - 7.4 any deficiencies or defects caused by our compliance with your written directions as to the specifications, design, materials, method of construction or otherwise;
 - 7.5 any deficiencies or defects within tolerances contemplated by the required specifications;
 - 7.3 any deficiencies or defects that individually or collectively do not impair the functionality of our Product;
 - 7.6 any damage due to normal wear and tear, misuse, neglect, excessive heating, mechanical vibration, power fluctuations, operation contrary to instructions, or unauthorized modifications or servicing;
 - 7.7 a sub-system or component not manufactured by us, but to the extent we are legally able to do so, we must make available to you the benefit of the manufacturer's own warranty;
 - 7.8 failure due to interface with equipment (such as an antennae) supplied or installed by parties other than us.
- We do not give any other warranty of supply to the extent we are legally able to do so.

8 Warranty duration

The above warranty starts on the later of:

- 8.1 the 14th day after we ship the Product; and

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- 8.2 if we commission the Product, the day after the day we commission the Product; and continues for 12 months.
A claim for warranty must be in writing received by us no later than 14 days after the end of the warranty period.
The buyer covers all freight costs incurred in returning goods for repair with no exceptions. This includes goods returned for repair under warranty.
Tomco Technologies covers one-way freight costs incurred in returning goods to the customer which are repaired and serviced under warranty.

9 Liability

- 9.1 Our liability for a warranty claim is limited to:
9.2 in the case of a Product:
9.2.1 the replacement of the Product or the supply of equivalent Product; or
9.2.2 the repair of the Product;
9.3 in the case of Services, the supply of the Services again.
We are not in any case liable to you for any personal injury, indirect, special or consequential loss or damage (including loss of profits, loss of opportunity or business interruption) suffered by you or any third party.

10 Price

- 10.1 Unless we quote you a specific price, we will supply at our current prices prevailing at the time of shipment of Product or supply of Service.
10.2 A price specified does not include Australian sales tax (if any), freight, insurance and other delivery charges.
10.3 We may vary a specific price:
10.3.1 if we or our subcontractors are unable to proceed with the work without interruption due to your default;
10.3.2 if you vary specifications of the Product which results in additional material or labour costs;
10.3.3 if specifications of the operating environment of the Product do not meet those indicated by you; or
10.3.4 if prices quoted by sub-system or component suppliers vary from those current at the date of making our contract with you.

11 Invoices

- 11.1 We may issue invoices for Products when shipped, even if those Products are only part delivered or may not have been installed or commissioned.
11.2 We may issue invoices for Services as work is done.

12 Payment

- You must pay the price at the times and in the installments specified. Payments are to be made by telegraphic transfer in clear funds to a bank account nominated by us. If no installments are specified, you must pay the price within 30 days of presentation of invoice. You are not entitled to deduct from the price any set-off, counterclaim or any other sum unless we first agree in writing. If a payment by you is overdue, we may:
12.1 charge interest at our banker's highest overdraft interest rate from the date of default to the date of payment;
12.2 withhold further goods or services until paid; and/or
12.3 retake possession of any Products already delivered and/or installed.

13 Intellectual property

We own the design rights, copyright and any other intellectual property rights in any design, drawings, plans, manuals, or similar prepared for the purposes of our supply.

14 Government

We are responsible to obtain any necessary Australian government approvals for the supply. You are responsible to obtain any necessary other government approvals for the supply.

15 Force majeure

A party is not liable for failure to perform its obligations to the extent and for so long as its performance is prevented or delayed because of circumstances outside the party's direct control and without fault or negligence by that party, but only if that party immediately gives written notice to the other party and does everything reasonable to remedy the cause quickly.

16 Disputes

Any disputes arising in connection with the supply shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed under the Rules. Such

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arbitration must take place in Adelaide.

17 Notice

Notice can only be in writing in English signed by the party or its agent. Notice can only be given to a party personally or by registered post to the recipient's last known place of business (and notice by post is deemed to be received at the time at which the letter would be delivered in the ordinary course of post) or by facsimile transmission to the recipients' last known facsimile number (and notice by facsimile transmission is deemed to be received when the sending machine confirms notice has been sent).

18 Governing law

These terms are governed by the laws in South Australia.

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