

# TecEco Pty. Ltd. and Subsidiaries

## Terms of Supply

TecEco Pty Ltd (ABN 62 090 097 591) and its subsidiaries (TecEco) are in the business of developing new leading edge technologies including software, cementitious binders and related sustainable technologies. Our products include goods such as, magnesia of various grades, blended cements and concrete as well as services including software and consulting services.

Many of TecEco's products are used to formulate concrete or in concrete which may be mixed by the Recipient or supplied in the plastic state and the performance is greatly affected by, in the case of software, the Recipient's input data and interpretation of results and in other cases work practices in manufacturing, handling, mixing, placing and curing.

The terms and conditions of supply detailed below apply regardless of whether TecEco are quoting or supplying and whether we charge or not.

### 1. DEFINITIONS

**Recipient** means the person or entity to whom the good or service is supplied by TecEco

**Products** includes goods and services supplied by TecEco. Examples of goods are cements, magnesia, pre-mixed concrete and other materials, substances, or ingredients. Examples of services include software, consulting generally, formulations, methods, proportions or the provision of other information.

**Quotation** means the form of quotation submitted by Supplier to a Recipient in which these terms and conditions of sale are, or are deemed to be, incorporated.

The **Purpose** for use is until advised otherwise for experimental and testing purposes only.

**Sales Invoice** means the sales invoice issued by Supplier to a Recipient in which these terms and conditions are, or are deemed to be, incorporated.

### 2. QUOTATIONS

- 3.1 Unless previously withdrawn, a quotation is valid for thirty (30) days or such other period as stated therein. A quotation is not to be construed as an obligation to sell but merely an invitation to treat and no contractual relationship shall arise until the Recipient's order has been accepted by TecEco in writing.
- 3.2 TecEco shall not be bound by any conditions attaching to the Recipient's order or acceptance of a Quotation and, unless such conditions are expressly accepted by TecEco in writing, the Recipient hereby acknowledges that such conditions are expressly negated.
- 3.3 Prices specified in a Quotation are subject to alteration without notice. Unless otherwise stated in writing by TecEco, prices quoted shall be exclusive of handling, delivery, agents charges and any charge, duty or impost including goods and services tax (GST).
- 3.4 Every Quotation is subject to and conditional upon obtaining any necessary import, export or other licence.
- 3.5 All quotations are subject to TecEco having the right to refuse to supply Products if they are not satisfied as to the credit worthiness of the Recipient or that the Products will be used for the Purpose.

### 4. DELIVERY

- 4.1 Time of delivery is not guaranteed without special undertaking. Any schedule given for delivery or collection of Products is given or agreed by TecEco in good faith, and every endeavour will be made to comply therewith. TecEco shall not, however, be liable for any loss or damage consequential or otherwise arising through its failure to make delivery by the due date or time.
- 4.2 Pallets are charged for at the quoted rate unless otherwise stated. The amount will be credited in full on all pallets returned in good and reusable fashion. The return of pallets is the Recipients responsibility.
- 4.3 A waiting time or hourly hire surcharge may apply when a delivery is unable to be made upon arrival at the delivery site.
- 4.4 A minimum load surcharge may apply for delivery of loads smaller than the minimum load size for delivery of each particular type of good. The Recipient should contact its local Supplier sales office for details and rates of all surcharges.

## **5. RESPONSIBILITY FOR SAFEKEEPING OF PRODUCT**

- 5.1 Products supplied by TecEco to the Recipient shall be at the Recipient's risk immediately upon delivery to the Recipient, into the Recipient's custody or at the Recipient's direction (whichever is the sooner). The Recipient shall thereafter be responsible for the safekeeping of the Products and insure them against such risks as it deems appropriate, noting the interest of TecEco on the insurance policy and producing a certificate to this effect to TecEco upon request.

## **6. INSPECTION AND ACCEPTANCE**

- 6.1 The Recipient shall inspect all Products upon delivery and shall within forty-eight hours of delivery give notice to TecEco of any matter by which the Recipient alleges that the Products are not in accordance with the Recipient's order. Failing such notice and, to the extent permitted by statute, the Products shall be deemed to have been delivered and accepted by the Recipient.
- 6.2 TecEco reserves the right to supply standard products from several or any works without prior notification.

## **7. TERMS OF PAYMENT**

- 7.1 Payment by the Recipient for Products delivered and accepted is due within 30 calendar days of the end of the month in which the Products are invoiced. If the Recipient fails to make payment in accordance with this clause, all amounts owing by the Recipient to TecEco on any account shall immediately become due and payable. Outstanding amounts shall bear interest of the rate of 10 per centum per annum calculated on a daily basis. If a credit card is used for the payment of invoices a surcharge of 2.5% will be added.
- 7.2 The Recipient must pay TecEco the cost of any bank fees arising from dishonoured cheques paid by the Recipient to TecEco, and must also pay an administrative charge and for any legal or other debt collection costs incurred by TecEco.
- 7.3 The Recipient may vary or withdraw any credit arrangements at any time and without any liability whatsoever to the Recipient or any party claiming through the Recipient.
- 7.4 If Supplier has any liability to pay the Goods and Services Tax ("GST") on any Products supplied to the Recipient, the Recipient shall pay to TecEco the amount of such GST at the same time as amounts otherwise payable to TecEco.

## **8. TITLE & STORAGE**

- 8.1 Property in the Products supplied by TecEco to the Recipient pursuant to these terms and conditions shall not pass to the Recipient until those Products and other Products supplied by TecEco to the Recipient have been paid for in full.
- 8.2 In the event of the Recipient not taking delivery of Products manufactured specifically to design requested by the Recipient, TecEco reserves the right to charge for the Products.
- 8.3 Until the Products have been paid for in full:
  - 8.3.1 the Recipient shall store the Products in such manner as to show clearly that they are the property of TecEco; and
  - 8.3.2 the Recipient may sell the Products, in the ordinary course of its business, as agent for TecEco and shall account to TecEco for the proceeds of sale (including any proceeds from insurance claims) which proceeds shall be kept in a separate bank account.
- 8.4 The Recipient irrevocably authorises TecEco at any time, to enter onto any premises upon which:
  - 8.4.1 TecEco's Products are stored to enable TecEco to:
    - 8.4.1.1 inspect the Products: and/or
    - 8.4.1.1 if the Recipient has breached these terms and conditions, reclaim the Products;
  - 8.4.2 the Recipient's records pertaining to the Products are held to inspect and copy such records.
- 8.5 Products delivered in accordance with order but surplus to requirements will, if required by the Recipient and if kept by the Recipient in good condition, be collected and credited at two thirds ex works values less re-loading and freight costs.
- 8.6 The provisions of this clause apply notwithstanding any arrangement pursuant to which TecEco grants credit to the Recipient.

## **9. FORCE MAJEURE**

- 9.1 If in the performance or observance of its obligations TecEco is prevented, restricted or affected by reason of a force majeure including strike, lock out, industrial dispute, raw material shortage, breakdown of plant, transport or equipment or any other cause beyond the reasonable control of TecEco, TecEco may, in its absolute discretion give prompt notice of such cause to the Recipient whereupon TecEco is excused from such performance or observance to the extent of such prevention, restriction or affectation.

## **10. PRODUCT LIABILITY**

- 10.1 Whilst the Recipient believes that the Products will provide satisfactory performance, TecEco (including its employees, agents and advisers) make no express or implied representation or warranty as to the safety, reliability, or as to the performance characteristics of the Products.
- 10.2 The Recipient agrees that it is its responsibility to take all precautions necessary to prevent loss or damage arising from use of the Products.
- 10.3 The Recipient agrees to indemnify and keep indemnified TecEco (including its employees, agents and advisers) from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, proceedings of any kind, costs,

expenses or disbursements of any kind which may be imposed on, or incurred by, TecEco relating to, or arising from, use of the Products by the Recipient.

## **11. LIABILITY OF TECECO**

11.1 Except as expressly provided herein and to the extent permitted at law:

11.1.1 TecEco shall not be liable, whether in contract, tort or otherwise in respect of defects in Products delivered or for any injury, damage or loss resulting from such defects or from any work done in connection therewith except to the extent that any statute applicable to these Terms and Conditions prevents the exclusion, restriction or modification of such liability;

11.1.2 TecEco shall not be liable to the Recipient for any loss of profit howsoever arising nor shall TecEco be under any liability whether in contract, tort or otherwise nor for any injury, damage or loss whether consequential or otherwise except as is expressly provided in these Terms and Conditions;

11.1.3 the Recipient indemnifies TecEco against any liability to or action by a third party for infringement or alleged infringement of a patent, registered design, trademark or copyright in respect of Products manufactured to the Recipient's specification.

## **12. GOVERNING LAW**

12.1 These terms and conditions of supply and any contract including them shall be governed by the laws of the State of Tasmania and the jurisdiction of the Tasmanian Courts.

## **13. GENERAL**

13.1 These terms:

13.1.1 do not transfer any interest in any intellectual property;

13.1.2 do not oblige either party to enter into any agreements for supply;

13.1.3 contain the entire terms and conditions of supply and supersedes all prior communications and understandings on that subject matter

13.2 The failure of Supplier to insist on performance by a Recipient of any obligation under this deed is not a waiver its right:

13.2.1 to insist on performance of, or to claim damages for breach of that obligation unless that Recipient acknowledges in writing that the failure is a waiver; and

13.2.2 at any other time to insist on performance of that or any other obligation of the other party under this deed.

13.3 These terms may be varied from time to time by TecEco.

**AFFIRMATION:**

I/we have read and understood the above Terms of Supply and, where necessary, have sought independent legal advice in relation to them.

I/we agree to abide by these terms.

**Signed by/for .....**  
Entity for if applicable

.....

Print Name:

.....

Print Address:

Print Email Address

Print Phone Numbers: