



## Standard Terms of Trade

### 1. Goods and/or Services

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Both parties agree to:

1. Act in good faith and demonstrate honesty, integrity, openness and accountability in their dealings with each other
2. Discuss matters affecting this Contract or the delivery of the Goods and/or Services, whenever necessary
3. Notify each other immediately of any actual or anticipated issues that could significantly impact on the Goods and/or Services or the Charges
4. Comply with all applicable laws and regulations.

### 2. Estimate or Quotation (GST Exclusive)

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Evatech Solutions may provide an Estimate to the Buyer setting out the estimated price and quantity of the Goods and/or Services to be supplied. If the Estimate is acceptable to the Buyer, the Buyer may place an order within an acceptable timeframe. After delivery of the Goods and/or Services the actual price may be more or less than the estimated price.

Alternatively, the Buyer may request a Quotation from Evatech Solutions setting out the price and quantity of the Goods and/or Services to be supplied. If the Quotation is acceptable to the Buyer, the Buyer may place an order within an acceptable timeframe.

Both parties agree to notify each other immediately of any actual or anticipated issues that could significantly impact on the Goods and/or Services or the Charges.

### 3. Acceptance

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If any instruction is received by Evatech Solutions from the Buyer for the supply of Goods and/or Services, it shall constitute acceptance of the terms and conditions contained herein. Upon acceptance of these terms and conditions by the Buyer, the terms and conditions are definitive and binding.

### 4. Terms and Conditions

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These terms and conditions and any subsequent terms and conditions issued by Evatech Solutions shall apply to all orders for the Goods and the Services made by the Buyer after the date and time at which these conditions are first delivered or sent by email or facsimile to, or otherwise brought to the notice of, any employee, staff member or representative of the Buyer. It shall be the Buyer's responsibility to ensure that these conditions are promptly brought to the attention of the appropriate staff of the Buyer, and accordingly any order made by the Buyer after the date and time described above in this clause shall be deemed to be an acceptance of these conditions.

### 5. Price

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- 5.1. The Price shall be as indicated on invoices provided by Evatech Solutions to the Buyer in respect of Goods and/or Services supplied; or
- 5.2. The Price shall be the Price of Evatech Solutions current Price at the date of delivery of any Goods and/or Services
- 5.3. Time for payment for the Goods and/or Services shall be of the essence and will be stated on the invoice, quotation, tender documents, work authorisation form or any other work commencement forms.
- 5.4. The Buyer agrees that the cost Price shall be determined by Evatech Solutions, and shall take into consideration "one-off" costs such as design and production.
- 5.5. Evatech Solutions reserves the right to adjust charges for alterations to specifications of Goods and/or Services after the order has been placed.

5.6. If the Buyer is a company, then the person acting on behalf of the company acknowledges receipt and acceptance of these conditions as a duly authorised officer for that company and also personally as guarantor for the company and promises and guarantees due performance by the company of its obligations to Evatech Solutions.

## **6. Payment, Late Payment, Default of Payment and Consequences of Default of Payment**

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6.1. The method of payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Buyer and Evatech Solutions.

6.2. Subject to any provision to the contrary in the Contract, payment shall be received within 14 days of the date of Evatech Solution's invoice to the Buyer, which shall be issued promptly on or after delivery of the Goods and/or Services.

6.3. Late payment shall incur interest at the rate of 15% per annum calculated on a daily basis. This shall be payable on any monies outstanding under the Contract from the date payment was due until the date payment is received by Evatech Solutions, but without prejudice to Evatech Solution's other rights or remedies in respect of the Buyer's default in failing to make payment on the due date.

6.4. The Buyer may be liable for Evatech Solution's debts collection and/or legal costs incurred for pursuing the debt if payment is not made by the Buyer by the due date.

6.5. Without prejudice to any other remedies Evatech Solutions may have, if at any time the Buyer is in breach of any obligation (including those relating to payment), Evatech Solutions may suspend or terminate the supply of Goods and/or Services to the Buyer and any of its other obligations under the terms and conditions. Evatech Solutions will not be liable to the Buyer for any loss or damage the Buyer suffers because Evatech Solutions has exercised its rights under this clause.

6.6. In the event that:

- a) any money payable to Evatech Solutions becomes overdue, or in Evatech Solutions opinion the Buyer will be unable to meet its payments as they fall due; or
- b) the Buyer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer;

then without prejudice to Evatech Solutions other remedies at law Evatech Solutions shall be entitled to cancel all or any part of any order of the Buyer that remains unperformed in addition to, and without prejudice to any other remedies; and all amounts owing to Evatech Solutions shall, whether or not due for payment, immediately become payable.

6.7 If Evatech Solutions incurs any legal costs or costs charged by a debt collection agency (including commission) when taking steps to collect any part of the price of goods and services supplied that have not been paid by the Buyer, the Buyer will become liable for payment of these costs in addition to the balance of the price (and any penalty interest owing).

## **7. Governing laws**

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These Terms of Trade will be interpreted in accordance with applicable government legislation, which will have exclusive legal jurisdiction over any dispute in relation to the Goods and/or Services or these Terms of Trade. In the event that any one or more of the provisions of these Terms of Trade shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions hereof shall not in any way be affected, prejudiced or impaired thereby.

## **8. Dispute resolution**

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8.1. The parties agree to use their best endeavours to resolve any dispute or difference that may arise under this Contract. The following process will apply to disputes:

- a) Either party must notify the other in writing if it considers a matter is in dispute.
- b) If the dispute is not resolved within 10 working days of notification the parties shall refer the dispute to mediation or some other form of alternative dispute resolution.
- c) Each party will pay its own costs of mediation or alternative dispute resolution.
- d) If there is a dispute, each party will continue to perform its obligations under this Contract as far as practical given the nature of the dispute.
- e) Each party agrees not to start any court action in relation to a dispute until it has complied with the process described in the clause, unless court action is necessary to preserve a Party's rights.

## **9. Reservation of title**

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Ownership and title of the goods remains with Evatech Solutions until the purchase price and all other monies owing by the Buyer, under the contract or any other contract with Evatech Solutions, have been paid in full. Evatech Solutions has the right to enter the Buyer's premises and repossess the goods if payment is not received in full.

## **10. Liability**

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Evatech Solutions shall be responsible to ensure its risks of doing business are adequately covered, whether by insurance or otherwise. Evatech Solutions currently has Insurance Cover provided by Vero Insurance; a Coverage Schedule is available upon request.

Evatech Solutions shall not be liable for any loss of any kind whatsoever suffered by the Buyer as a result of any breach of any of Evatech Solution's obligations under the contract, including any cancellation of the contract or any negligence on the part of Evatech Solutions, its servants, agents or contractors, nor shall Evatech Solutions be liable for any loss, damage or injury caused to the Buyer's servants, agents, contractors, buyers, visitors, tenants, trespassers or other persons. The Buyer shall indemnify Evatech Solutions against any claim by any such person.

## **11. Definitions**

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In these conditions unless the context otherwise requires:

- Evatech Solutions means Evatech Solutions NZ Ltd.
- Buyer means the person or company buying the goods and/or services from Evatech Solutions.
- Goods and/or Services mean the products and/or services being purchased by the Buyer from Evatech Solutions.
- Contract means the legal agreement between Evatech Solutions and the Buyer that comprise these Terms of Trade or any other written document for the purchase of the Goods and/or Services.
- Date of the contract means where the contract arises from an estimate or quotation given by Evatech Solutions, i) the date of acceptance of the order by Evatech Solutions; or ii) the date upon written notification of acceptance of the estimate or quotation is received by Evatech Solutions.
- Contract price means the price of Goods and/or Services as agreed between the Buyer and Evatech Solutions.
- Person includes a corporation, association, firm, company, partnership or individual.
- Estimate means how much Evatech Solutions thinks the Goods and/or Services will cost. The actual price may be more or less.
- Quotation means the fixed price on offer for specific Goods and/or Services for a fixed term.