

# B2BE Terms and Conditions

## 1. General

- 1.1 All services supplied to Subscriber by Supplier under a supply contract are supplied on the following Terms and Conditions
- 1.2 These Terms and Conditions cannot be varied or modified except by an instrument in writing signed by Supplier and Subscriber. These Terms and Conditions take precedence over any terms and conditions contained in any document of Subscriber or elsewhere, and any such terms and conditions have no application to or effect on a supply contract.
- 1.3 These Terms and Conditions shall be governed by and construed in accordance with the laws and codes of the Republic of the Philippines and Subscriber submits to the non-exclusive jurisdiction of the Courts of the Republic of the Philippines.

## 2. Interpretation

For the purposes of these Terms and Conditions, unless the context otherwise necessarily requires:

“Subscriber” means any person, firm or corporation including his successors, administrators and assigns who or which has requested the supply of goods by Supplier;

“Supplier” means B2BE.COM PHILIPPINES, INC., Registered in the Republic of the Philippines under SEC Reg. No. CS200804922, of Unit 302, Rufino VAR Building, 6784 Ayala Avenue, corner V.A. Rufino Street, Makati City 1200, Metro Manila and its successors, administrators and assigns;

“VAT” includes any services associated with the supply and/or installation of goods and services;

“Tax” means any Tax (VAT or otherwise) imposed by or through the laws and codes of the Republic of the Philippines and in the context of a supply, means the amount of Tax on that supply whether or not that Tax is actually payable to the Republic of the Philippines Bureau of Internal Revenue;

“Related Corporation” in relation to Supplier or Subscriber means a corporation which is a related body corporate of Supplier or Subscriber (as the case may require) within the meaning of the relevant sections of the Corporation Code;

“Representative” shall mean: (a) the Representative Member of a partnership which includes the Supplier; or (b) the joint venture operator in which the Supplier is a Participant;

“Supplier’s Premises” means any place from which goods supplied under a supply contract are made available for collection by Subscriber;

“Supply” means any Supply within the meaning of the Code; and

“Supply Contract” means the B2BE Service Agreement, or however arising, for the supply of goods and services by Supplier to Subscriber and includes these Terms and Conditions.

### **3. B2BE Service Agreement – Supply**

3.1 Supplier may at its absolute discretion refuse to supply goods under a supply contract where:

- a. goods & services are unavailable for any reason whatsoever; and/or
- b. payment for goods previously supplied to Subscriber or any related corporation of Subscriber or to any other party who is, in the reasonable opinion of Supplier, associated with Subscriber under the same or another supply contract has not been received by Supplier.

3.2 B2BE Service Agreement:

This document will constitute acceptance of goods and services as specified by Subscriber in this Agreement

### **4. Price & Payment**

4.1 All goods and services are sold at Suppliers ruling price as set out in the B2BE Service Agreement.

4.2 The price of goods and services is subject to change by Supplier with twenty-eight days (28) written notice supplied to Subscriber including change to incorporate any increase in the cost of materials and/or labour.

4.3 Subject to the terms of any extended credit agreed in writing by Supplier, either generally or in relation to the supply contract, Subscriber shall pay Supplier for goods and services in full within sixty (60) days from date of Invoice.

4.4 The Supplier shall be entitled to recover, in relation to any supply (for VAT purposes) made by the Supplier under or in connection with a supply contract (including a Supply relating to the enforcement of any right to be indemnified or other right arising in relation to the supply contract), any VAT on such Supply except to the extent that the price (if any) for the relevant Supply expressly

includes any of the VAT. Any VAT recoverable by the Supplier shall be recoverable at the same time and in the same manner (including the recovery of interest) as any other consideration for the Supply.

4.5 Subscriber shall pay Supplier on demand the rate prescribed from the date of payment until the date payment is made. Subscriber shall pay Supplier on demand the interest rate of twenty percent (20%) per annum on overdue amounts owed by Subscriber to Supplier which interest shall be calculated daily and paid on demand. All costs and expenses associated with collecting overdue amounts, including but not limited to legal fees of Supplier, are to be paid by Subscriber as a debt due and payable under the Supply Contract. All Subscriber payments shall be applied first to such costs and expenses, secondly to the accrued interest and thirdly to overdue amounts.

4.6 Subscriber shall not be entitled to retain any money owing to Supplier, notwithstanding any default or alleged default by Supplier of the Terms and Conditions, including, without limitation, the supply of allegedly faulty or defective goods.

## **5. Software Ownership**

5.1 B2BE will retain all copyright in the B2BE Software (including enhancements), and is authorised to include or supply the B2BE Software to third parties subject to the third partys rights under this Agreement.

## **6. Privacy**

6.1 B2BE collects information to deliver the services as defined in this Agreement. B2BE takes privacy very seriously, to view the latest B2BE Privacy Policy please go to: [www.b2be.com/privacy-policy/?lang=en](http://www.b2be.com/privacy-policy/?lang=en)

## **7. General Data Protection Regulation**

7.1 B2BE has implemented appropriate technical and security processes to ensure that B2BE complies with the General Data Protection Regulation (GDPR) obligations. For further information regarding B2BEs commitment to GDPR please go to: [www.b2be.com/gdpr/?lang=en/](http://www.b2be.com/gdpr/?lang=en/)

## **8. Warranty**

- 8.1 Subscriber acknowledges that the B2BE Software cannot be guaranteed to be error free and further acknowledges that the existence of any errors shall not constitute a breach of supply.
- 8.2 Notwithstanding the above, B2BE warrants that the B2BE Software is fit for marketing, installation and use for its intended purpose.
- 8.3 B2BE warrants that each Service, if used properly by Subscriber, shall perform substantially in accordance with the then current published user documentation for that B2BE Software. B2BE further warrants that the System used to provide the B2BE Software shall be available for use **95.5%** of the total hours in a calendar month exclusive of scheduled maintenance hours. The term "System" means B2BE's specific computer and its directly connected central communications processor(s) which directly provide access to Subscriber's data files; other computer and communications equipment, including that which is the property or responsibility of B2BE, are explicitly excluded from its warranties. The warranties in this Section shall only apply to failures to meet the applicable B2BE Software warranty, which are reported to B2BE in writing within **sixty (60) days** after the date of the failure.

## **9. Patents and Copyright**

- 9.1 Subscriber acknowledges that the B2BE Software and Documentation are subject of copyright. The Subscriber shall not do any act which infringes that copyright and, without limiting the generality of the foregoing, the Subscriber acknowledges that it may not copy the software or documentation except as otherwise expressly authorised by the Supplier.
- 9.2 The Subscriber and Supplier shall indemnify each party fully against all liabilities, costs and expenses that each party may incur to a third party as a result of the Subscribers or Suppliers breach of the copyright provisions of this Supply Agreement.

## **10. Liability**

- 10.1 Except as expressly provided to the contrary, B2BE shall not be under any liability to the Subscriber in respect of any loss or damage (including consequential or indirect loss or damage) however caused, which may be suffered or incurred in respect of the supply of goods or services pursuant to this Agreement or the failure of B2BE to comply with its obligations under this Agreement.
- 10.2 Except as expressly provided to the contrary, all warranties relating in any way to the subject matter of this agreement are excluded.

10.3 Where any statute implies terms into this Agreement that cannot be lawfully excluded, such terms will apply to this Agreement. However the liability of B2BE for any breach of such terms shall be permitted if that Code be limited, at the option of B2BE, to any one or more of the following:

- a. If the breach relates to goods provided by B2BE, at B2BEs discretion:
  - i. The replacement of the goods or the supply of equivalent goods or services;
  - ii. The repair of such goods;
  - iii. The payment of the cost of replacing the goods or of acquiring equivalent goods; or
  - iv. The payment of the cost of having the goods repaired.
- b. If the breach relates to services provided by B2BE, at B2BEs discretion:
  - i. The supplying of the service again; or
  - ii. The payment of the cost of having the service re-instated again.

## **11. Force Majeure - Circumstances beyond Control of both Parties**

11.1 Neither B2BE nor the Subscriber shall be responsible for failure to fulfil any obligation under this Agreement due to event or circumstances beyond its control. Such events shall include but not be limited to acts of God, war, strikes, labour disruption, disruption of common carriers or utilities and similar events. If either party should fail to make any delivery or payment provided for herein as a result of any such event or circumstance, that party shall have the right to make delivery or payment within a reasonable time after the cause of such delay has been removed and the other party shall be obligated to accept deferred delivery or payment.

## **12. Assignment**

12.1 Neither party may assign its rights under this Agreement without the prior written consent of the other party, such consent not to be unreasonably withheld.

### **13. Validity Period and Termination**

- 13.1 This service agreement will remain in force for a period of 12 months from the date signed in this agreement. This agreement will continue to remain in force for the rolling 12 months unless termination notice has been given by either party as set out in Clause 13.2.
- 13.2 Either party may terminate this Service Agreement giving at least 28 days written notice prior the end of each 12-month period.
- 13.3 During the 12-month period of the Service Agreement, Subscriber agrees to pay all stated monthly fees selected in this agreement by the Subscriber. In any case where the service value may vary from month to month, Subscriber will pay the minimum value in this agreement where specified.

### **14. Non-Disclosure**

- 14.1 Both parties agree not to disclose any details of this Agreement to any third party. Both parties may disclose details of this Agreement on-a-needs basis only to those personnel who are required to know and will have to be advised of this non-disclosure clause. Both parties also agree that this clause shall survive termination or expiration of this Agreement.

### **15. Dispute Resolution**

- 15.1 Either party may give the other party notice of a dispute under this Agreement. The parties must initially attempt to resolve any such dispute at the level where it arose.
  - a. If the parties are unable to resolve a dispute under clause (15.1) within 30 days of the dispute arising, the parties will refer the dispute to the B2BE Management and to Subscriber Management who must each negotiate in good faith to resolve the dispute.
  - b. If the parties are unable to resolve a dispute under clause (15.1) within 30 days of the dispute being referred, the parties will refer the dispute to arbitration by an independent expert. The parties must agree upon the selection of the independent expert – failing which it is agreed that the parties may have the option instead to refer this dispute for arbitration which shall be conducted under the auspices the Regional Centre for Arbitration at Philippines under the Rules adopted by the Centre from time to time in force. Such arbitration costs shall be borne equally by both parties.

## **16. Disclaimer**

- 16.1 B2BE do not make any warranties about the completeness, reliability, and accuracy of this information. Any action Subscriber takes upon the information on this website is strictly at your own risk, and B2BE will not be liable for any losses and damages in connection with the use of our website.