

TERMS AND CONDITIONS OF TRADE

To the fullest extent legally possible, all dealings between Sapient Technology Pty Ltd ACN 101 950 903 (and each of its subsidiaries, divisions, affiliates, associated and related entities & its successors and assigns) ("Sapient") and any Customer ("Customer") relating to any goods or services are subject to the following Terms and Conditions of Trade ("these Terms") unless otherwise agreed in writing.

- 1. Payments:** (a) Payments to be within 30 days of end of month of invoice date without deduction or set-off of any kind. (b) Sapient may apply a payment received from the Customer to any amounts owed by the Customer (including interest, part payment of an invoice, administration, collection and other costs) in any order. (c) Sapient is entitled to set-off or deduct any amount payable by Sapient to the Customer.
- 2. Interest:** Interest is payable on overdue accounts at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) plus an additional 3% and a monthly admin fee of \$25 will apply.
- 3. Property:** (a) Property in goods will not pass until payment in full of all monies owed to Sapient on any basis ("**Full Payment**"). (b) Sapient reserves the right to take possession and dispose of goods as it sees fit at any time until Full Payment and the Customer grants permission to Sapient to enter any property (whether owned by it or otherwise) where any goods are in order to do so and with such force as is necessary. (c) Immediately upon delivery the Customer accepts liability for the goods. (d) A document signed by an officer of Sapient identifying goods and certifying that monies are owing to Sapient will be conclusive evidence of Sapient's title thereto. (e) Clause 3 is not intended to create a charge and must be read down to the extent necessary to avoid being a charge.
- 4. Limitation of Liability:** (a) The Customer must limit any claim upon Sapient relating to goods, to the cost of replacement of goods or the supply of equivalent goods and relating to services, to the cost of having services supplied again. (b) Sapient will not be liable for any claim arising after 7 days from delivery of goods or performance of services (or at all once goods have been unpacked, modified, on-sold or otherwise used or applied) after which there will be deemed to be unqualified acceptance. (c) Sapient will not be liable in any way for any contingent, consequential, direct, indirect, special or punitive damage arising whether due to Sapient's negligence or otherwise and the Customer acknowledges this limit of liability and agrees to limit any claim accordingly. (d) No other term, condition, agreement, warranty, representation or understanding whether express or implied in any way extending to or otherwise relating to or binding upon Sapient is made or given. (e) Sapient will not be liable for any claim relating to or arising from any alleged fault or defect, whether caused or contributed to by Sapient, the Customer or any 3rd party or otherwise.
- 5. Returns:** (a) If Sapient elects to take back product it must be in as new and saleable condition and upon terms agreed and a re-stocking fee will apply. (b) Custom made or custom processed goods or goods acquired by Sapient specifically for the Customer will not be returnable. (c) Any goods which are accepted by Sapient as defective may be returned and will be replaced free of charge or be the subject of a credit for the invoiced value. "Free of charge" does not include labour, transport or material costs. (d) Details of Sapient returns policy (as varied from time to time) is available from Sapient's website at www.sapient.com.au.
- 6. Specific Orders:** Customer specific orders may be rejected by Sapient at its election, unless accompanied by a non-refundable deposit of at least 50% of the total order price.
- 7. Placement of Orders:** (a) If any dispute arises concerning any order (and including any measurement quality quantity identity or authority or any telephone, facsimile, e-mail or computer generated order) the internal records of Sapient will be conclusive evidence of what was ordered. (b) Each order placed will be and be deemed to be a representation made by the Customer at the time that it is solvent and able to pay all of its debts as and when they fall due. (c) Failure to pay in accordance with these Terms will be and be deemed to be conclusive evidence that the Customer had no reasonable grounds for making the representation referred to in 7(b) and that the representations were unconscionable, misleading and deceptive. (d) When any order is placed, the Customer must inform Sapient of any material facts which would or might reasonably affect the commercial decision by Sapient to accept the order and/or grant credit in relation thereto. Any failure to do so will create and be deemed to create an inequality of bargaining position and will constitute and be deemed to constitute the taking of an unfair advantage of Sapient and to be unconscionable, misleading and deceptive.
- 8. Delivery:** (a) Sapient accepts no responsibility for delivery but may elect to arrange delivery at its discretion and without any liability and at the Customer's costs and responsibility in all things. (b) Sapient reserves the right to charge for any delivery. (c) The Customer will be deemed to have accepted delivery and liability for the goods immediately Sapient notifies that they are ready for collection or when they are delivered to a carrier or to the Customer's business premises or site whether attended or not. (d) A document (including without limitation a consignment note) purporting to be signed by an officer of Sapient confirming delivery will be conclusive evidence of delivery as will any signed delivery docket. (e) Sapient will not be liable for delay, failure or inability to deliver any goods. (f) Once the Customer has been notified that goods are ready for collection, the Customer agrees to pay all costs of holding or handling goods. (g) Frustrated Delivery: If delivery requires more than one attempt, the Customer agrees to pay all costs relating thereto.
- 9. Variation:** Variation or cancellation of any order, dealing or arrangement must be agreed in writing.
- 10. Exclusions:** (a) No dealing with the Customer will be or be deemed to be a sale by sample or description. (b) If Sapient publishes material about its goods and prices, any part which is incompatible with these Terms is expressly excluded. (c) The Customer will rely on its own knowledge and expertise in choosing any product for any purpose. (d) Any advice or assistance given for or on behalf of Sapient must be accepted at the Customer's risk and must not be or be deemed given as expert or adviser nor to have been relied upon.
- 11. On-Sale:** The Customer agrees that upon on-sale of any goods to inform any third party involved of these Terms and in particular the provisions of Clause 3.
- 12. Severability:** Any part of these Terms can be severed without affecting any other part.
- 13. Purchase Price:** (a) All sales are made by Sapient at its ruling price at the time of delivery. (b) All Government imposts and any GST ("Imposts") will be to the Customer's account. (c) Sapient's price lists exclude Imposts unless expressly noted thereon.
- 14. Default:** Default or breach by the Customer of these Terms or in any dealings with Sapient will entitle Sapient to retain all monies paid, call-up all monies due or owing (whether currently due and owing or not), cease further deliveries and recover from the Customer all loss of profits without prejudice to any other of its rights under these Terms or at law.
- 15. Products and Services:** (a) Sapient disclaims any responsibility or liability whatsoever relating to suitability for any particular purpose or process. (b) The Customer agrees to check all goods prior to use alteration or any application thereof whether in relation to suitability for any particular purpose, process or otherwise. (c) The Customer agrees to check and test all goods for compliance with all relevant applicable standards and regulatory bodies before use, on-sale or application and to use or apply same in accordance with all applicable standards, regulations and guidelines, with all manufacturers and/or Sapient recommendations and directions as well as with good commercial practice. (d) Sapient may update, modify, make substitution or alter any of its goods or any component or raw material incorporated in or used in forming any part of any goods as part of its ongoing business. The Customer agrees to accept current goods in substitution for any goods ordered provided they are not materially different. (e) Sapient disclaims any responsibility or liability relating to any goods: (i) processed or made to designs, drawings, specifications or measurements etc. or with materials which are provided or approved (whether in part or fully) by or on behalf of the Customer; and/or (ii) utilised, stored, handled or used incorrectly or inappropriately.
- 16. Other Terms and Conditions and Notice:** (a) Terms and/or conditions sought to be imposed by the Customer upon Sapient will not apply unless agreed in writing by Sapient. (b) The Customer will be deemed to have notice of any change to these Terms, immediately Sapient adopts them.
- 17. Recovery Costs:** The Customer will pay all costs and expenses of Sapient, its legal advisers, mercantile agents and others acting on its behalf in respect of anything instituted or being considered as a result of any breach of these Terms or breach of any dealings with Sapient.
- 18. Attornment:** To give effect to its obligations arising under these Terms (and especially Clause 23) the Customer hereby irrevocably appoints any solicitor for Sapient from time to time as its attorney.
- 19. Customer Restructure:** The Customer will notify Sapient of any change in its structure or management including any change in director, shareholder, management, partnership or trusteeship or sale of any material part of its business within 7 days of any such change.
- 20. Jurisdiction:** All contracts made with Sapient must be deemed to be made in Victoria and the parties submit to the jurisdiction of the appropriate Courts in or nearest Melbourne.
- 21. Credit Line:** Sapient can vary or withdraw any credit facility or limit it at any time at its discretion and without any liability to the Customer or any other party.
- 22. Waiver:** If Sapient elects not to exercise any rights arising as a result of breach of these Terms it will not constitute a waiver of any rights relating to any subsequent or other breach.
- 23. Security For Payment:** The Customer: (a) agrees on written request to charge in favour of Sapient: (i) by way of a fixed charge, all its books of account goodwill documents of title and current and later acquired real and intellectual property; and (ii) by way of a floating charge the whole of the Customer's other undertaking property & assets, with Full Payment; (b) grants a lien to Sapient over any of its property in the possession or control of Sapient until Full Payment; (c) agrees to execute any documents and to do all things requested by Sapient to register a mortgage (or such other security Sapient requires) over any current or later acquired real property the Customer has an interest in; (d) consents unconditionally to Sapient lodging a caveat noting its interest in any current or later acquired real property the Customer has an interest in; and (e) agrees that Sapient may exercise its rights under clause 18 to effect compliance with this clause 23.
- 24. Force Majeure:** Sapient will not be in default or breach of any dealing with the Customer as a result of Force Majeure (i.e. anything beyond Sapient's reasonable control).
- 25. Intellectual Property:** (a) If Sapient utilises any design, patent or intellectual property or follows any instruction provided by or on behalf of the Customer, the Customer indemnifies Sapient against any claim, proceeding, damages or liability for any loss, cost or expense arising as a result whether for any alleged infringement of any intellectual property or otherwise. (b) The Customer must not advertise, use or represent any intellectual property of Sapient or of any goods themselves in any way without the prior written consent of Sapient. (c) If the Customer breaches or permits any breach of this clause, it acknowledges Sapient may suffer claims by third parties as a result (e.g. by models who's images are reproduced without authority and/or by parties who are entitled to exploit any intellectual property) and clause 30 will apply.
- 26. Specifications:** (a) Any illustration drawing or specification supplied by Sapient ("Specs") are drafts and approximates and are for illustration purposes and the Customer should not rely on the accuracy of such Specs in any way. (b) Any tangible or intellectual property rights in Specs remain the property of Sapient and may be recalled at any time. (c) Specs are to be treated at all times as confidential and not made use of without the prior written consent of Sapient.
- 27. No Set-Off:** No Set-off or counterclaim will be made or applied by the Customer until payment in full of all bona fide invoices raised by Sapient (whether current or overdue) and this clause may be pleaded as a bar to any action taken prior to such payment in full.
- 28. Stock Discretion:** Sapient has a continuing discretion to allocate available stock and gives no warranty as to certainty of supply unless expressly agreed in writing in advance.
- 29. Partial Delivery/Forward Orders:** If the Customer places forward orders or request partial or instalment delivery, the Customer agrees: (a) to pay for so much of any order as is from time to time delivered by Sapient; and (b) that no delay or failure to fulfil any part of any order will entitle the Customer to cancel or vary any order or delay or reduce any payment.
- 30. Indemnity:** The Customer indemnifies Sapient against any claim or loss arising from or related in any way to any contract or dealing between Sapient and the Customer or anything arising therefrom or arising as a result of or subsequent to any breach of these Terms.
- 31. Insolvency:** (a) If the Customer commits or is involved in any act of insolvency, it will be deemed in default under these Terms. (b) An act of insolvency includes bankruptcy, liquidation, receivership, administration or the like and failure to pay in accordance with these Terms.
- 32. Exports:** Contracts for the International Sale of Goods (known as the Vienna Sales Convention 1980) are expressly excluded unless otherwise stipulated in these Terms or on Sapient's invoice for the goods.
- 33. Quotations:** The Customer agrees: (a) quotations must be in writing; (b) Sapient shall not be bound by any quotation if an order is placed outside the period of the quotation's validity noted thereon and in the absence of such period being noted, 14 days from the date of the quotation; (c) prior to receipt of any order Sapient may amend a quote; and (d) Sapient shall not be bound by any quote if: (i) it forms the view that the subject matter of the quotation is to form part of a larger transaction or series of transactions with the Customer and those circumstances have materially changed; or (ii) the Customer is in breach of these Terms.
- 34. Recalls:** In the event of a product recall ("Recall"), the Customer must give Sapient such assistance as Sapient reasonably requires in relation to that Recall.
- 35. Exclusion of warranty:** Sapient is not bound by any warranty (and the Customer agrees not to make any claim against Sapient in relation to any warranty) in respect of goods or services unless all goods and services have paid for in full without set-off or deduction of any kind.
- 36. Electromagnetic Interference:** The Customer acknowledges: (a) that electronic RFID readers are susceptible to electromagnetic interference and frequency disruption; (b) and agrees that 100% performance of the electronic readers cannot and is not guaranteed particularly where they are exposed to electromagnetic interference and/or frequency disruption during storage or operation by the Customer; and (c) agrees that Sapient will not be liable in any way for a failure (in whole or in part) of an electronic reader particularly where it is exposed to electromagnetic interference and/or frequency disruption.
- 37. Credit Information and Privacy Act 1988 (Cth):** The Customer irrevocably authorises Sapient, its servants and agents to make such enquiries as they deem necessary to investigate the credit worthiness of the Customer from time to time, including the making of enquiries with (without limitation) persons nominated as trade references, other entity's which in Sapient's opinion the Customer may have had dealings with, the bankers of the Customer, any credit provider or Credit Reporting Agency and including personal credit and consumer credit information and LandData/property inquiries and name searches (hereinafter called "**Sources**"). The Customer hereby authorises the Sources to disclose to Sapient such information concerning the Customer which is within their possession. The Customer agrees that any relevant trading information arising from any dealings between the Customer and Sapient may be disclosed to a Credit Reporting Agency or any other interested person, subject to Sapient's Privacy Policy from time to time which can be obtained by writing to the Credit Manager, Sapient Technology Pty Ltd, 99B Highbury Road, Burwood, VIC 3125.
- 38. Sapient not Manufacturer:** The Customer agrees that where Sapient is not the manufacturer of any goods: (a) those goods are sold subject to any manufacturer's trading terms and conditions and are covered (if at all) by any manufacturer's warranty applicable thereto; (b) Sapient shall not be liable to any party as manufacturer of those goods; (c) Sapient will use all reasonable endeavours to assist the Customer to claim upon the actual manufacturer in relation to those goods, but at the Customer's cost in all things; and (d) if Sapient is deemed manufacturer of those goods in any circumstances, the Customer will fully indemnify Sapient against any liability loss or cost associated with or arising as a result of such deeming.
- 39. Limited Warranty:** (a) Unless otherwise stated by Sapient and subject to the provisions of these Terms and in particular but not limited to clause 4, the warranty for all goods sold by Sapient is for a period of 12 months from the date of purchase by the Customer ("**Limited Warranty**"). This Limited Warranty is subject to change by Sapient at anytime without notice. (b) This Limited Warranty does accessories and consumable items, cleaning, normal wear and tear, damage caused by accident, neglect, misuse, improper installation or operation, acts of God, including but not limited to lightning flood earthquake and fire, foreign matter entering the product such as liquid, moisture, insects or dirt or any damage caused from service, maintenance, modification or tampering by anyone other than Sapient or its authorised representatives or with the use of add on products that are non Sapient goods. (c) Operation of the goods in excess of the specifications or intended purpose, use on electrical voltages other than shown on the rating plate, or use with the serial number or rate label removed, shall be deemed abuse and all repairs thereafter shall be the sole liability of the Customer. (d) The Customer is responsible for transporting (including packaging, transportation and insurance costs) the goods to and from Sapient with proof of purchase in the form of a sales receipt, including date and place of purchase. Damage caused during transportation by failing to package the goods correctly will not be covered by the Limited Warranty. (e) This Limited Warranty ceases when the good is rented, sold or otherwise disposed of by the Customer. (f) This Limited Warranty shall be deemed to restrict any warranty required to be given under the Trade Practices Act 1974 (Cth) or any consumer legislation of any state of Australia but Sapient's liability for breach of warranty is limited to the fullest extent permitted by that legislation.