

General

1. These terms and conditions apply to all work undertaken and good supplied by this Business and should at all times be read subject to the Customer's rights under the *Trade Practices Act 1974 (Cth)* and the *Fair Trading Act (Qld) 1989*. The placement of any order by the Customer with this Business pursuant to any quotation made by this Business or the purchase of goods from the business shall constitute acceptance by the Customer of these terms and conditions. These conditions (which shall only be waived in writing on Business letterhead signed by a duly authorized officer of the Business) shall prevail over all conditions of the Customer's order to the extent of any inconsistency.
2. In these terms and conditions a reference to 'Business' means MSY Technology Pty Ltd ACN 093 529 401 trading as:
 - (a) MSY Technology (VIC)
 - (b) MSY Technology (NSW)
 - (c) MSY Technology (Qld)
 - (d) MSY Technology (SA)
 - (e) MSY Technology (WA)
 - (f) MSY Technology (ACT)

Quotations

3. Unless previously withdrawn, only those quotations made on official Business letterhead signed by a duly authorized officer shall constitute an offer to the Customer from this Business and be legally binding upon acceptance of the offer by the Customer. No quotations are authorized to be given verbally and any price mentioned is understood to be merely a guide for the convenience of the Customer, and is not legally binding upon the Business. The Business reserves the right to withdraw any quotation after seven (7) days of the provision of the quotation to the Customer.
4. Any quotation provided by this Business is not to be taken as an offer in law, but merely an indication of the goods to be supplied or work undertaken and/or the price to be charged by this Business. An order from the Customer for goods to be supplied or work undertaken by this Business is taken to be an offer by the Customer and any goods supplied or commencement of work by this Business is taken to constitute acceptance of such offer creating a legally binding Contract.
5. The business is not under any obligation whatsoever to supply goods or services to any individual, company or other entity and may, at its sole discretion, elect not to supply goods and services. The prior provision of a quotation by the business does not place any obligation upon the business to provide the goods and services when requested by an individual, company or other entity.
6. The advertisement of goods or services by this Business (including the display of products on

the Business's website) is an invitation for the Customer to make an offer to the Business for the purchase of goods and services and not an offer by the Business to enter into a purchase contract. Any goods or services advertised on any price list or at a special price may be for limited quantities and the Business is under no obligation to sell any goods or services at an advertised price or at all once the nominated number of stock items at the special or promotion price have been sold or if no further stock is on hand or available to the Business.

7. Where an order is placed with the Business on the Business's website, the Business is under no obligations, and a legally binding contract is not created, until an Order Acceptance is provided to the Customer. This clause remains in force despite any deposit or payment by the Customer to the Business made prior to receiving an Order Acceptance.

Price

8. (a) Unless otherwise stated all prices quoted by this Business are net, exclusive of Goods and Services Tax (GST) and do not include any shipping, delivery or insurance costs.
- (b) Any price quoted by this Business is based on the cost of labor and materials and where appropriate, exchange rates ruling, at the date of the quotation. Any escalation in such costs between the date of the quotation and the date of completion shall be borne and paid for by the Customer.
- (c) Prices stated on the official website of the Business are subject to change without notice and based on stock held by the Business when the website is updated.
- (d) Where no quotation is given, the charge will be assessed on completion, taking into account the materials used, work performed, and all other circumstances relevant to determining the amount due and payable by the Customer.
- (e) In addition to the price of the goods and GST, the Customer must pay to the Business all shipping costs in relation to the ordered goods. In the event the cost of shipping increases between the date of the order and the date of shipping by the Business, the Customer agrees to make payment of such increase without delay.

Payment

9. (a) The full purchase price for all goods and services provided by the Business must be paid by the Customer upon collection of the goods or receipt of the services. In the case of internet Orders, cleared funds must be received by the Business before any goods will be shipped.
- (a) This Business reserves the right to charge progress payments on work carried out, or a deposit in anticipation of the final invoiced amount, to cover costs incurred prior to the completion of such work. These will be disclosed to the Customer at

the time of entering the purchase contact.

- (b) This Business reserves the right to charge interest at a rate to be determined by the Business (and unless otherwise stated shall be two (2) percent above the overdraft rate on loans in excess of \$50,000.00 as may be charged from time to time by the Commonwealth Bank of Australia) on all amounts outstanding after seven (7) days from the date a Statement is issued by this Business.

Delivery and Shipping

10. The delivery times relating to the supply of goods or completion of work undertaken agreed between the Customer and this Business are business estimates only and **not** contractual obligations for which the Business can be held liable.
11. This Business is not liable for any loss, damage or delay, consequential or otherwise, occasioned to the customer or its customers arising from late delivery of the goods or completion of any work nor will the customer be entitled to terminate or repudiate the contract on any such grounds.
12. All Order must provide a valid delivery address and contact phone number. In the event an Order is not deliverable due to an error by the customer, the customer shall be fully liable for the costs of having the goods delivered on a second occasion. Until payment of such costs are made to the Business, the goods will not be redelivered to the Customer.
13. This Business recommends that all customers take out optional insurance for all purchases. The Business does not warrant the safe delivery of goods where insurance is not taken out and paid for by the Customer at the time of placing an Order.
14. Where the Customer elects to have goods collected from the Business, no responsibility whatsoever is taken by the Business for transit of the goods by any courier or delivery service.

Performance

15. Any performance figures, specifications, drawings and particulars of systems and functionality of parts given by this Business are estimates only. The Business is under no liability for damages for failure of the goods to attain such figures, specifications or particulars unless specifically guaranteed on Business letterhead in writing signed by a duly authorized officer. Any such written guarantees are subject to the recognised tolerances applicable to such figures, specifications and particulars.
16. Any performance figures, specifications, drawings and particulars of systems and functionality of parts given by the manufacturer of goods are not within the control of the business and liability for the failure of goods to attain such figures, specifications or particulars must be taken up by the Customer directly with the manufacturer.

Customer's Property

17. Any property of the Customer in this Business's possession, custody or control is completely at the Customer's risk as regards loss of or damage caused to or by the property. Further, the risk of goods supplied or work completed shall pass to the Customer upon delivery.
18. The Business is not responsible for any loss or damage to any data contained on any storage device provided to the Business. Although the Business shall take all reasonable care in dealing with a Customer's property (and do not have authority to access any data of the Customer), damage can occur during testing or repair and no warranty is provided as to the security of the data or the ability for data to be recovered. The Customer should ensure all data is backed up prior to delivering equipment with storage capabilities to the Business.

Supply of Goods

19. Where the business supplies parts to the Customer and the Customer attempts installation without success, assistance from the business for diagnostic work and installation shall be charged by the Business at an hourly rate as advised to the Customer prior to commencement of the works required.
20. This Business provides no advice or warranty as to the suitability and compatibility of goods purchased from this Business and it is the Customer's sole responsibility to ensure the goods purchased are compatible and suitable for the intended purpose. Any assistance provided by the employees of the Business to the Customer is for guidance purposes only and does not in any way bind the Business as to the suitability of the goods for a purpose identified by the Customer. No refund or replacement for incompatibility of parts or software is offered by the Business unless agreed to under Clause 17 of these Terms.
21. In the case of computer systems sold by the Business, the Customer is hereby advised and acknowledges that no software or operating system is included with the purchased hardware unless specifically ordered and paid for by the Customer. The Customer will be provided with all applicable registration codes or keys for all software purchased at the time of payment to this Business.

Rights in Relation to Goods Supplied and Work Completed

22. (a) This Business reserves the following rights in relation to the goods supplied and work completed until all amounts owed by the Customer to this Business are fully paid:
- (i) ownership of goods supplied and work completed;
 - (ii) to enter the Customer's premises (or the premises of any associated Business or agent where the goods are located) without liability for trespass or any resulting damage and retake possession of goods

- supplied; and
- (iii) to keep or resell any goods in the possession of this Business and/or repossessed pursuant to (ii) above.
- (b) If the goods supplied are resold, or if products manufactured using the goods supplied are sold by the Customer, the Customer shall hold so much of the proceeds of any such sale as represents the invoice price of this Business for the goods supplied or used in the manufacture of the goods sold, in a separate identifiable account as the beneficial property of this Business and shall pay such amount to this Business upon request.
- (c) Notwithstanding the provisions above, this Business shall be entitled to maintain an action against the Customer for the invoiced price.

Guarantee and Limitation of Liability

23. Any claim to be made by a Customer under a guarantee or warranty provided by this Business or a manufacturer must be accompanied by the original Tax Invoice issued by the Business and returned to the Business's operating premises unless otherwise specified in writing by this Business.
24. Should any goods supplied by this business be defective, the business may repair the defective goods, replace the defective goods with a product of similar specifications or provide the Customer with a refund for the defective goods, provided that:
 - (a) defects have arisen solely from faulty materials or workmanship;
 - (b) the goods have not received maltreatment, inattention or interference;
 - (c) accessories of any kind used by the Customer are manufactured by or approved by this Business;
 - (d) the manufacturer's seal attached to any sealed equipment cases remains unbroken; and
 - (e) notice of the defective goods or work completed by this business is given to this Business within a reasonable time, taking into account the cost and quality of the goods purchased.
25. In the event the Business agrees (at its sole discretion) to accept the return of non-faulty goods due to the Customer no longer wanting or requiring the purchased item, the Customer will be refunded the current market value or purchase price (whichever is lower) of the goods less a fifteen (15) percent restocking and administration fee. This fee will only be waived by the Business where the returned goods are faulty and covered by warranty.
26. The Customer acknowledges that physical damage to goods caused after they leave the business premises is not covered by any warranty whatsoever. Any complaints about the condition of goods supplied and services rendered **MUST** be raised with a representative of the business prior to the goods and/or serviced items being removed from the business premises. Any complaints or claims after this time in relation to physical damage will be only be considered at the sole discretion of the Business.
27. For preconfigured systems built by the Business, the Customer shall be given full details of the installed components at the time of delivery. Any complaints as to missing or incorrectly supplied parts must be raised with the business at the time of delivery. If a system is subsequently returned by a Customer with claims of missing or incorrectly supplied parts, the Business agrees to investigate such claims. Should the business be satisfied that the system had missing or incorrectly supplied parts, the Business will agree to provide the missing or incorrectly supplied parts at no further cost to the Customer. Where appropriate, the Business will offer the Customer a refund. In investigating such complaints, the Business will take into account the Order Form submitted by the Customer, the description of the goods as provided to the Customer at the time of delivery and the period of time the computer system was in the Customer's possession.
28. Subject to the Customer's rights under clause 24 of these Terms of Trade, where a voluntary warranty is provided by the manufacturer of a product which is in excess to the statutory rights of the Customer, the business agrees to assign to the Customer on request made by the Customer the benefit of any such voluntary warranty to the goods that the manufacturer has granted to this Business under any contract or by implication or operation of law.
29. Subject to Clause 24 of these Terms of Trade, the Business shall make every reasonable attempt to assist the Customer in making a claim against the manufacturer under any voluntary guarantee or warranty provided by the said manufacturer; however, the business shall not be obliged to do so beyond the period of one (1) year from the original purchase date of the goods. After this time, should the Customer require assistance from the Business in obtaining recourse under any voluntary warranty issued by a manufacturer, the Business shall be at liberty to charge a service fee to cover the costs incurred by the Business in dealing with the manufacturer on the Customer's behalf.
30. Where the manufacturer of the goods accepts direct warranty claims from clients, the Business shall not be under any obligation to provide any warranty assistance to the Customer.
31. The Customer acknowledges that the business has no control whatsoever over the time taken by the manufacturer to determine a warranty claim and/or replace goods and the Customer shall not make any complaint to or against the Business in relation to such matters.
32. Where the business receives goods from the Customer for return to the manufacturer and the goods have evidence of physical damage,

- the Customer accepts that any decision as to whether a warranty claim is accepted lies with the manufacturer after appropriate testing has been carried out. Where the manufacturer rejects a warranty claim due to the goods being damaged after the date of sale, the Customer acknowledges that it will become liable to pay to the Business the fixed sum of \$55.00 to cover the Business's costs of dealing with the manufacturer on the Customer's behalf.
33. This Business is not liable for and the Customer releases this Business from any claims in respect of the faulty or defective design of any goods supplied unless such design has been wholly prepared by this Business and the responsibility for any claim has been specifically accepted by this Business in writing. In any event this Business's liability under this paragraph is limited strictly to the replacement of defective parts in accordance with paragraph 11(a) of these conditions.
34. This Business is not liable for, nor does it provide any guarantee or warranty, on any parts or equipment supplied by the Customer for use in work undertaken by this Business.
35. No guarantee or warranty other than that contained herein, whether written or verbal, is authorized to be made on behalf of this Business in relation to work undertaken or goods supplied by this Business unless such separate warranty is given on Business letterhead signed by a duly authorized officer. Where such additional written warranty is given by this Business, the terms and conditions of that warranty should be read in addition and complementary to the terms and conditions contained herein. In the event of any inconsistency the terms and conditions contained herein are to prevail.
36. To the extent allowed by law and except as provided in these conditions, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, quality, suitability or fitness of the goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded. This Business is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation or operation of the goods supplied or work undertaken or arising out of this Business's negligence, breach of statutory duty or in any way whatsoever.
37. Subject to Section 68A of the Trade Practices Act 1974, this Business' liability for the supply of goods or services that are not acquired for personal, domestic or household use is limited to:
- (a) in the case of goods, any one or more of the following:
 - (i) the replacement of the goods or the supply of equivalent goods (in both quality and specification);
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing
- the goods or of acquiring equivalent goods (in both quality and specification);
- (iv) the payment of the cost of having the goods repaired; or
- (b) in the case of services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.
 provided that reliance on this clause is fair and reasonable under the circumstances.
38. The Business's liability under s 74H of the Trade Practices Act 1974 is expressly limited to a liability to pay to the Customer an amount equal to:
- (a) the cost of replacing the goods;
 - (b) the cost of obtaining equivalent goods (in both quality and specification); or
 - (c) the cost of having the goods repaired, whichever is the lowest amount.
- Intellectual Property**
- 39 All information contained on this website which does not already have copyright belonging to a manufacturer it hereby the property of the Business. No duplication or use of information on this website may be made without first obtaining written consent from the Business.
- Representations**
- 40 The Business gives no representation or warranty as to the suitability and compatibility of goods purchased from or service provided by the Business other than those specifically stated below (or otherwise provided in writing by the Business). Where no representations are stated the Customer agrees that no such representations have been made and it is the Customer's sole responsibility to ensure that the goods and/or services are compatible and suitable for the intended purpose.

Representations:

Prepared by:

