

SAPPHIRE SOLUTIONS LIMITED (“The Company”)

STANDARD CONDITIONS OF SALE OF GOODS AND/OR PROVISION OF SERVICES

1. **Price** - Unless expressly quoted, the prices contained in any contract and any discounts are those applicable at the date of delivery. The Company reserves the right to vary prices from time to time at its discretion and without notice.
2. **Taxes and Expenses** - Goods and Services Tax and other taxes and duties on the supply of goods or services to the Customer and any other expenses resulting from exchange rate fluctuations, customs charges, shortages or such other costs or expenses imposed on the Company for the supply of goods, equipment, accessories (in these Standard Conditions together referred to as goods) or services (“expenses”) are not included in the price and shall be the responsibility of the Customer or, where the payment of expenses is the legal responsibility of the Company, the price shall be increased by the amount of such expenses. Any increase in the amount of expenses between the date of any quotation and the date of delivery of the goods or services shall be the responsibility of the Customer and the price shall be increased accordingly and debited to the Customer’s account (if any).
3. **Payment** - Subject to any provision to the contrary in the contract, payment shall be made within 7 days of the Customer being invoiced for equipment and/or peripherals and service are all due and payable on the 20th of the month following. Any goods returned must be within 7 days of the delivery date and such claims must quote the relevant invoice number.
4. **Security** - If the Company shall at any time consider the Customer’s credit to be unsatisfactory, it may require security for payment and may suspend performance of its obligations under the contract until sufficient security has been provided. All costs and expenses of the Company as a result of such suspension and any commencement shall be payable by the Customer upon demand.
5. **Clear Funds** - Receipt of a cheque or other negotiable instrument by the Company shall not constitute payment and the Customer shall remain liable of the full contract price until such cheque or negotiable instrument is paid in full.
6. **Penalty Interest and Costs** - If the Customer is in default of any monies due and owing to the Company then without prejudice to any other rights available to the Company: (a) Default Interest at the rate of 2% per month may be charged to the Customer from the date payment was due until the date payment is received by the Company; and (b) the Customer shall be liable for all costs, expenses and losses incurred by the Company in recovering the amount owing including full legal and debt collection costs on a solicitor/client basis or by a nominated Debt Collection Company.
7. **Delay** - The Company shall not be responsible for delays or defaults in delivery of goods or services or any part of them nor for any resulting direct or consequential loss or damage where this arises for reasons beyond the Company’s control. The Customer’s payment obligations shall not be affected by any such delay. 11.1 Hereby grants the Company a security interest in the goods supplied by the Company to the Customer pursuant to this Contract, and all of the Customer’s present and future rights in relation to the goods, which interest shall be a continuing security interest securing the contract price payable by the Customer, and the performance of all the Customer’s obligations, under this Contract;
8. **Risk** - Risk of any loss, damage or deterioration of or to goods shall be borne by the Customer from delivery of the goods.
9. **Insurance** - Until property in goods passes to the Customer, the Customer shall keep the goods fully insured in the names of the Company and the Customer and will produce to the Company on demand such evidence as the Company may require confirming such insurance. If the Customer defaults in the performance of its obligations under this clause, the Company shall be entitled to insure the goods and the cost of doing so shall be payable by the Customer to the Company upon demand.
10. **Title** - Property (being both legal and equitable title) in the goods shall be retained by the Company until the purchase price of the goods pursuant to any contract based on these terms and conditions of sale has been paid in full.
11. **Security Interest** - Pending payment in full the Customer:
 - 11.1 Hereby grants the Company a security interest in the goods supplied by the Company to the Customer pursuant to this Contract, and all of the Customer’s present and future rights in relation to the goods, which interest shall be a continuing security interest securing the contract price payable by the Customer, and the performance of all the Customer’s obligations, under this Contract;
 - 11.2 acknowledges that the Company may, at the Customer’s cost, register the Company’s security interest in all of the goods supplied by the Company to the Customer pursuant to this Contract, and all of the Customer’s present and future rights in relation to the goods, on the Personal Property Securities Register;
 - 11.3 shall do all things and provide all information as the Company may require for the purpose of securing to the Company the goods supplied by the Company to the Customer pursuant to this Contract, the payment of the Contract price payable by the Customer, and the performance of all the Customer’s obligations, under this Contract, ensuring that the Company has a perfected first ranking security interest in the goods and any proceeds;
 - 11.4 shall not change its name without first notifying the Company at least 7 days before such change takes effect and shall notify the Company of any changes in or to any of its other details prior to such changes taking effect;
 - 11.5 warrants that all information provided by or on its behalf was true and accurate as at the date of this Contract and there are no facts or circumstances which have not been disclosed to the Company which would make that information untrue, inaccurate or misleading;
 - 11.6 shall ensure that the goods are kept separate and identifiable at all times and shall exercise all reasonable care in the storage and handling of the goods;
 - 11.7 shall not permit: (a) the goods supplied under this Contract to become an accession to any property;
(b) the goods supplied under this Contract to be affixed to any land or premises;
(c) any lien to be created on the goods supplied under this Contract or any part of them for any reason whatsoever;
(d) any charge, assignment, mortgage, encumbrance or security interest to attach to this Contract;
(e) any charge, assignment, mortgage, encumbrance or security interest (other than our security interest) to attach to, nor shall the Customer sell, offer for sale, pledge, lend or otherwise deal with or part with possession or control of, the goods supplied under this Contract or any part of them.
12. **Personal Property Securities Act 1999** - The Customer:
 - 12.1 Agrees that if, at any relevant time, the Company does not have priority over all other secured parties in respect of the goods supplied under this Contract, the parties will have contracted out of section 109(1) of the PPSA specifically on the basis that section 109(1) (amended however by the deletion of the words “with priority over all other secured parties”) is reinstated and contracted back into;
 - 12.2 agrees that nothing in sections 114(1)(a), 116, 117(1)(c), 119, 120(2), 133 and 134 of the PPSA will apply to this Contract or the security under this Contract;
 - 12.3 waives all its rights under sections 121, 125, 129, 131, 132 of the PPSA; and
 - 12.4 waives its right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the security interest under the Contract.
- For the purposes of this Contract:
 - 12.5 “PPSA” means the Personal Property Securities Act 1999;
 - 12.6 “accession”, “attach”, “financing statement”, “verification statement” and “security interest” have the meanings given to them under, or in the context of, the PPSA.
13. **Installation** - Where any contract provides for installation of the goods to be carried out by the Company such contract is upon the basis that it is the Customer’s responsibility:
 - 13.1 To provide suitable access to the premises in all weather conditions for the vehicles and equipment that the Company will need to use in carrying out such installation;
 - 13.2 To provide all necessary services and amenities to enable the Company to carry out such installation;
 - 13.3 To ensure that the premises and foundations are structurally sound, safe (in accordance with all legislation governing safety in the workplace) and in a proper condition for the installation to proceed;
 - 13.4 To provide all plant, materials and services required to be provided by the Customer at such times and in such manner as to cause the Company no delay in carrying out such installation;
 - 13.5 To provide safe and secure on site storage for materials and accessories supplied and used by the Company, the employees and contractors.
14. **Change in Instructions** - The Customer shall advise the Company promptly of any decision or instruction which affects such installation.
15. **Warranties** - The Customer has prior to signing the contract examined the goods and is satisfied that they are in good working order and condition and are suitable for the Customer’s purposes. Where the Customer is using the goods and/or services in its business or for resupply in trade or where the Customer is not a consumer within the meaning of the Consumer Guarantees Act 1993 then all conditions and warranties applied by statute(s) or otherwise in respect of goods and/or services including in particular under the Consumer Guarantees Act 1993 and the Sale of Goods Act 1908 are expressly excluded to the extent permitted and the Customer agrees that no warranty, condition, description or representation on the part of the Company whether express or implied is given in respect of the goods or the services.
16. **Liability** - In any case, where the goods or services are being purchased for use in a business or for resupply in trade or where the Customer is not a consumer within the meaning of the Consumer Guarantees Act 1993: (a) the liability of the Company, whether in contract, tort or otherwise, in respect of all claims for loss, damage or injury arising from breach of any of the Company’s obligations arising under or in connection with any contract, from any cancellation of the contract or from any negligence on the part of the Company, the servants agents or contractors shall not in aggregate exceed the price of the goods or the services in respect of which the liability is claimed; and (b) notwithstanding anything in these terms and conditions, the Company (and its agents) will never be liable for any loss of income, profits, savings or goodwill or for any indirect or consequential loss or special or exemplary damages.
17. **Statutory Guarantees** - Any manufacturers’ or other written guarantees provided are in addition to any statutory rights the Consumer may have.
18. **Unauthorized Use, Installation or Repair** - The Company shall not be liable for any damage caused by malfunction of the goods or their incompatibility with the Customer’s systems where this is a result of: installation by unqualified tradespersons or substandard installation; or any addition to, modification of, or change in location of the goods or their being serviced by non-Company personnel, other than as authorised by the Company; or use of the goods otherwise than in accordance with manufacturer’s instructions.
19. **Consumer Guarantees Act 1993** - The Customer shall not do any act or make any omission which gives rise or might give rise to any liability on the part of the Customer and/or the Company under the Consumer Guarantees Act 1993.
20. **Holding Out** - The Customer shall not hold itself out as the servant or agent of the Company to any third party and will not do any act or make any omission which has or is likely to have that effect.
21. **Indemnity** - The Customer shall indemnify the Company in respect of any liability (including any legal costs and expenses on a solicitor own client basis) incurred as a result of the Customer’s breach of any of clauses 19 or 20.
22. **Default** - If the Customer:
 - 22.1 Defaults in the due payment of any moneys payable to the Company, whether under the contract or otherwise, or if the Customer is in default in the performance of its obligations under the contract or any other arrangement between the Company and the Customer; or
 - 22.2 Commits any act of bankruptcy, enters into any composition or arrangement with its creditors or (in the case of a company) does any act or makes an omission which would render it liable to be wound up or if a provisional liquidator is appointed or if a resolution is passed or a petition is filed for the winding up of the Company or if a receiver is appointed or there is any lien or other attachment levied over all or any of its assets, then the Company, without prejudice to any other rights it has, may suspend or terminate any or all contracts, and repossess any goods and payment for any goods delivered and work performed up to the date of such suspension or termination and any other moneys payable shall immediately become due and payable. In repossessing any goods the Company’s employees or agents may enter the premises of the Customer and the Customer shall indemnify the Company for any liability in respect of damage caused in doing so.
23. **Tolerances** - Dimensions, specifications and descriptions contained or referred to in any contract or in any catalogues or other publications maintained or issued by the Company are estimates only. Unless otherwise expressly agreed in writing, it is not a condition of any contract that goods or services will correspond precisely with such dimensions and specifications, and customer tolerances, or in the absence of customary tolerances, reasonable tolerance shall be allowed.
24. **Standard Supply** - Unless otherwise specified in any contract, goods and services are supplied as standard and have not been modified to meet the Customer’s individual requirements. The Company makes no warranty as to the compatibility of goods or services with any products, systems or procedures of the Customer other than as specified in any contract.
25. **Standard Conditions Prevail** - In the case of any conflict between an order submitted by the Customer and these Standard Conditions, these Standard Conditions shall prevail.
26. **Applicability** - These Standard Conditions shall apply to all orders for the Company’s goods or services made by the Customer after the date and time at which these Standard Conditions are first brought to the attention of any employee, officer or representative of the Customer. It shall be the Customer’s responsibility to ensure that these Standard Conditions are brought to the attention of the appropriate officers of the Customer, and accordingly any order made by the Customer after the date and time described above in this clause 26 shall be deemed to be an acceptance of these Standard Conditions. References in these Standard Conditions to “contract” are to these Standard Conditions together with any particular written agreement in respect of supply of particular consignments of goods or particular services.
27. **No Assignment** - The Customer may not assign all or any of its rights or obligations under any contract without the prior written consent of the Company. A change in ownership or control whether direct or indirect is an assignment for the purposes of this clause.
28. **Customer’s Representations** - The Customer acknowledges that any representations made by it have been made to the Company to enable it to determine whether or not to supply any goods or services to the Customer and confirms that those representations are true and complete.
29. **Enquiries and Disclosure** - The Customer irrevocably authorises the Company to make any enquiries relative to the Customer’s credit or trading history, or that of the officers, shareholders or principals of the customer which it considers necessary, and for that purpose to disclose and seek from any bank, financial institution, lender, accountant, solicitor, advisor, credit reference agency or any other person any information including the details of the Customer’s and/or such officer’s shareholders or principals’ accounts or financial affairs.
30. **Authorisation to Third Parties** - The Customer requests and authorises the above parties to supply such information to the Company.
31. **Privacy Act Information** - The Customer acknowledges that all information provided by it or obtained by the Company will be held by the Company subject to the Customer’s right (if any) of access to and correction of such information provided by the Privacy Act 1993