

ASSURED IT Terms of Trade

These terms and conditions will apply to all Goods and Services sold, supplied or performed by ASSURED IT to you and your use of such Goods and Services where ASSURED IT accepts an offer from you to supply such Goods and Services based on a written (i) ASSURED IT quotation document; or (ii) ASSURED IT proposal document, except where:

- ASSURED IT has expressly agreed in writing to provide such Goods and Services pursuant to a separate written agreement.

You acknowledge that, unless expressly agreed to by ASSURED IT in writing, the terms and conditions included on a document issued by you (such as a purchase order, confirmation, receipt (including the terms on any pre-printed purchase order form, or your standard retainer document) will not apply to the sale or supply of Goods and Services by ASSURED IT to you or otherwise vary these terms and conditions.

General Obligations

You agree to perform your own specific obligations and responsibilities in accordance with this Contract. Without derogating from this, you agree to cooperate fully and act reasonably and in good faith to assist in the timely progress and fulfilment of our obligations under this Contract including, but not limited to, not unreasonably withholding or delaying the provision of any agreement, acceptance, information, assistance or other resource required by us and providing us with all necessary access to your premises and equipment. You agree to be responsible for all site preparation as required to enable efficient delivery and implementation of the Goods and Services. You agree to ensure that all our personnel, agents or sub-contractors are sufficiently trained in and aware of your policies and procedures.

We agree to cooperate fully and act reasonably and in good faith to ensure the timely progress and fulfilment of our obligations under this Contract.

Your Requirements and Specification Information

You warrant that all information pertaining to your hardware, software or service requirements and specifications is complete, accurate and has been provided to us prior to formal agreement on a CED.

Procurement of Hardware and Software

We agree to procure for and supply to you the Hardware and Software in accordance with the terms of this Contract.

Delivery

Estimated Delivery Dates are based on information available to us from suppliers and are subject to change at any time, without prior notice. We are not responsible for delays in delivery caused by a supplier or for other reasons beyond our reasonable control. We are not liable for any delays.

Risk and Title

Risk of loss or damage to Goods will pass to you upon delivery of the Goods to you or your authorised representative.

Notwithstanding the passing of risk:

- All Goods delivered remain our property until all monies owing have been paid in full. Until that time and in the case of Software, subject to the manufacturers consent and license conditions, you may sell the Goods in the ordinary course of business as agent for us, and the proceeds shall be held in trust for and on behalf of us.
- Prior to any sale, you shall hold the Goods as bailee for us and shall return the Goods to us on demand.
- Until payment has been received in full, we will be entitled to enter your premises at any reasonable time to inspect all records in relation to all Goods supplied by us and all records in respect of the sale of those Goods by you.
- We will be entitled to enter your premises at any reasonable time to recover possession of those Goods for which payment in full has not been made.
- It is agreed that where we enter your premises to take possession of the Goods and it is not possible to otherwise identify the ownership of the Goods in your possession, the Goods will be treated as though they were sold by you in the same sequence as you had taken delivery.

Performance of Services

Unless otherwise agreed, the Services will be performed by us during Business Hours of each Business Day. We agree to perform the Services in accordance with the terms of a CED. We will perform the Services utilising such resources, employees and subcontractors as we deem appropriate.

Prices and Payment

The Price payable for the Goods and Services is set out in a CED and does not include any Incidental Costs (including any GST).

The default agreed payment terms are seven (7) days from the date of our tax invoice. Interest may become payable at the rate of 2% per annum above the prime lending rate of our principal banker on any overdue amounts.

Confidentiality

We both agree to maintain in confidence and respect the Confidential Information of the other and to abide by the restrictions on use and disclosure of another's Confidential Information.

Exclusion of Warranties

To the extent permitted by law, and except as expressly set out in a CED, we provide the Goods and Services to you on an "AS IS" basis; exclude all warranties and conditions, express, implied or statutory (including all implied warranties of merchantability, fitness for a particular purpose, lack of viruses, uninterrupted or error free operation, accuracy or completeness of responses or results, lack of workmanlike effort or non-infringement) regarding the Goods and Services provided to you; and limit the remedies available for a breach of any warranty given to you to the lesser of and to the extent that such breach of warranty is capable of remedy by employing commercially reasonable efforts (as determined by us acting reasonably and in good faith):

- For Goods, the cost of repairing or replacing those Goods; or paying the cost of having those Goods repaired or replaced; and
- For Services, the cost of resupplying the Services; or paying the cost of having the Services resupplied.

Hardware Warranty

You accept the Hardware manufacturer's warranty in relation to the Hardware.

Software EULA and Warranty: Your use, rights and obligations in respect of Software is governed by its applicable EULA, unless it is varied by agreement between the parties to that EULA. You agree to execute and be bound by the terms of the Software owner's EULA. You accept the Software owner's warranty in relation to the Software.

Our Assistance with Hardware and Software Functionality Issues

Any issues or problems with any Hardware or Software functionality including, but not limited to, warranty claims, are to be resolved between you and the relevant owner or manufacturer directly, subject to the terms of the Hardware manufacturer's warranty or Software manufacturer's warranty and its EULA, as the case may be. We will, where possible, provide incidental and reasonable assistance to you during this process.

ASSURED IT may have conducted demonstrations of some or all of the products to the customer, and answered questions raised by the customer regarding the products. However ASSURED IT makes no warranty that the products will satisfy the requirements of the customer, and the customer acknowledges that it has gained sufficient information to satisfy itself as to the suitability of the products.

Unless otherwise specified, the products are not developed by ASSURED IT, and ASSURED IT is providing them as an authorized reseller and independent contractor. ASSURED IT is not responsible for any defects in the products.

Returns

Each claim by you for return of Goods shall be dealt with pursuant to our Goods returns procedure policy and procedure.

Services Warranty

We warrant that we will use commercially reasonable efforts to perform the Services (including the provision of any associated Materials) in accordance with a CED and any milestones set out therein and that all Services will be provided with due care and skill.

Materials Ownership and Licence

We retain all right, title and interest in all Materials created before and during the Service performance period. We grant to you a non-exclusive, licence to use, copy and distribute, within your group of companies only, copies of these Materials. Each party agrees to reproduce the copyright notice on any copies made under the licence granted above. Any idea, concept, know-how or technique which relates to the subject matter of a Service and is developed or provided by a party, or jointly by both, in the performance of a Service may (subject to applicable patents and copyrights) be freely used by either party.

Limitation of Liability

EXCEPT IN RESPECT OF A BREACH OF CONFIDENTIALITY, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES WHETHER SUCH DAMAGES ARE ALLEGED AS A RESULT OF TORTIOUS CONDUCT (INCLUDING NEGLIGENCE) OR BREACH OF CONTRACT OR OTHERWISE. Our maximum liability to you in aggregate for all claims made against us in contract, tort or for any other common law or statutory cause of action in connection with the subject matter of this Contract shall be limited to:

- In respect of Goods, the component of the Price paid by you for such Goods under this Contract;
- In respect of Services, the component of the Price paid by you for such Services under this Contract;

Where a claim(s) relates to both Goods and Services, the limits on our liability shall operate separately and independently of each other in respect of such Goods and Services. A party's liability for a claim of another party will be reduced proportionately to the extent that any act or omission of the first mentioned party or any of its officers, agents, employees or contractors causes or contributed to those liabilities, losses, damages, cost or expenses.

Term and Termination

This Contract will continue in force for the term set out in a CED or until we have fulfilled our obligations under this Contract. Either of us may terminate this Contract, on 30 days prior written notice, where the other is in material default. We may terminate this Contract with immediate effect if you become unable to pay your debts as and when they become due and payable.

Force Majeure

We are excused from performing our obligations to the extent we are prevented by circumstances beyond our reasonable control including, but not limited to, acts of God, natural disasters, acts of war, riots and strikes.

General Provisions

Assignment ASSURED IT may at any time transfer or assign any or all of its rights, obligations, benefit or interest under this Contract.

Severability The provisions in this Contract are enforceable independently of each of the others and if a provision of this Contract is, or becomes, illegal, invalid, void or deemed unenforceable by any court of competent jurisdiction, it shall not affect the legality, validity or enforceability of any other provisions of this Contract. If any of these provisions is so held to be illegal, void, invalid or unenforceable but would be legal, valid or enforceable if some part of the provision were deleted, the provision in question will apply with such modification as may be necessary to make it legal, valid or enforceable.

Variations This Contract may be varied from time to time providing that both parties agree to the variations in writing.

Waiver Failure or delay by either party to enforce any provision of this Contract shall not be deemed a waiver of future enforcement of that or any other provision, unless agreed in writing by the relevant party.

Entire Contract Where this Contract applies, it constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces any prior condition, warranty, representation, statement, agreement, undertaking, indemnity (whether negligently or innocently) imposed, given or made by a party, whether written, oral or implied and may only be amended in writing and signed by both parties.

Governing Law and Jurisdiction This Contract shall be governed by the laws of Queensland and each party submits to the non-exclusive jurisdiction of the courts of Queensland.

Definitions

'*Business Day*' means a day that is not a Saturday, Sunday or any other day that is a gazetted public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made, as the context admits.

'*Business Hours*' means 8:30 am to 5:00 pm of each Business Day.

'*CED*' or '*Commercial Engagement Document*' means an ASSURED IT quotation document or ASSURED IT proposal document, that may reference other specifications applicable to the sale or supply of certain Goods and Services by ASSURED IT.

'*Contract*' means a legally binding contract between ASSURED IT and you consisting of the relevant CED and these ASSURED IT terms and conditions.

'*Confidential Information*' means any trade secrets embodied in any information relating to, but not limited to, the commercial activities, product pricing, technologies, business processes, client relationships, strategic information and any other information related to the conduct of each parties businesses.

'*ASSURED IT*', '*us*', '*our*' or '*we*' means either the entity ASSURED IT Limited or any of its Related Corporate Bodies as specified in a CED as the seller or supplier.

'*Goods*' means either Hardware or Software procured or supplied pursuant to these terms and conditions, as the context admits.

'*EULA*' means the licence agreement governing the use of Software directly between you and the owner of that software.

'*Hardware*' means any physical product manufactured by a third party, including any associated third party maintenance service contracts, as specified in a CED.

'*Incidental Costs*' means delivery costs, tax, installation, support or maintenance costs, preparation of the site, audit of your physical environments, overtime rates, and any miscellaneous expenses, like travel & accommodation.

'*Individual Contract*' means a separate individual contract between ASSURED IT and a customer formed pursuant to the terms of a Head Agreement.

'*Material*' means literary works or other works of authorship that ASSURED IT may deliver to the Customer as part of a Service. The term "Material" does not include licensed software products which are provided in accordance with their EULA.

'*Price*' in relation to Goods and Services means the price payable for those Goods and Services as detailed in a CED.

'*Software*' means any licensed, packaged software that is manufactured, licensed or owned by a third party (other than ASSURED IT or you) ("Third Party") and procured on behalf of ASSURED IT for you, the use of which is subject to that Third Party's EULA, and where applicable, includes its associated third party support and maintenance contract.

'*You*' means the customer entity specified in a CED.