

General

Any order accepted by Sektor Pty Ltd (ACN 140 763 417), its parent or its subsidiaries (hereinafter called "the Company") for the supply of Goods shall be deemed to incorporate these Terms and Conditions of Sale. No variation or modification of, or substitution for these Terms and Conditions of Sale (even if included in, or referred to in, the document placing the order) shall be binding on the Company, unless previously and specifically accepted by the Company in writing. Acceptance of these Terms and Conditions of Sale does not necessarily imply access to all the Company's products. Certain products are classified as Authorised Products and are not necessarily available to all the Company's customers. The Company may make changes to these Terms and Conditions of Sale (including any credit terms) from time to time by notice to the Customer. The Customer is treated as having accepted the changed terms if it sends an order to the Company after receiving its notice of those changes.

Prices

Unless otherwise agreed in writing by the Company, the Company reserves the right to vary the price stated for the Goods in order to take account of any increase in shipping costs, product costs or cost of materials, services or exchange rate fluctuations at the time of acceptance of the Customers Purchase Order. The Company will notify the Customer of any such changes. All prices listed are GST exclusive unless otherwise stated and subject to change without notice. The Company reserves the right to accept or reject any Purchase Order, whether written or verbal, at its discretion.

Payment

Terms of payment are prior to delivery. Payment may be made by Cheque, Credit Card (MasterCard or Visa), or Direct Credit. Credit terms may be offered to an approved Customer when a satisfactory trading history has been established. The Customer warrants that as far as it is aware neither it nor any of its shareholders, controllers or owners are insolvent. The Customer acknowledges that the Company may, in its absolute discretion, approve or refuse to extend any credit to the Customer. If credit is extended to the Customer, the Company may reduce or withdraw any credit extended to the Customer and require it to immediately pay all moneys owed to the Company if the Customer: (i) breaches any of these Terms and Conditions of Sale; or (ii) in the Company's reasonable opinion, may or is suffering from an insolvency event.

The acceptance by the Company of any cheque or negotiable instrument shall not constitute payment unless and until the same has been honoured.

Without prejudice to any other rights of action the Company may have, unless payment is made to the Company on the due date for payment, the Customer's account will be automatically suspended until it is brought within the Terms and Conditions of Sale (unless otherwise arranged and confirmed in writing by the Company such as a bona fide dispute). The Customer agrees to pay interest to the Company on all overdue charges at the rate of 1.5% per month payable monthly (or such lesser rate as the Company may specify in writing) from the due date for payment until actual payment thereof, excepting any bona fide dispute which has been set aside.

In the event of an account not being paid by the due date the Customer will pay to the Company all debt collection agency costs and legal fees (on an indemnity basis) incurred by the Company in obtaining payment of the amount from the Customer. In addition, interest is payable on such debt collection agency costs and legal fees at the cumulative rate of 1.5% per month calculated monthly from the date on which they are paid by the Company until payment of the same by the Customer to the Company.

Assignment

An order and any payments to be made in relation to it shall not be assigned or transferred without the prior written approval of the Company, which shall not be unreasonably withheld or delayed.

Delivery

Delivery will be made to the location specified on the order form and the Customer shall be liable for all freight costs.

No claim for damage in transit or shortage in delivery will be considered in cases where the Company has agreed to deliver the Goods to the Customer unless a separate notice in writing is given to the carrier concerned and the Company immediately the Goods are received followed by detailed and complete claim in writing within 2 trading days of delivery. In the event of loss or destruction of the Goods in transit, advice of non-delivery must be submitted in writing to the carrier and to the Company within 7 days of the date of consignment as advised by the Company to the Customer.

Any period or dates quoted for delivery are to be regarded as approximate only and the Company accepts no liability for any loss, injury damage or expenses consequent upon any delay in delivery of Goods. Delay due to circumstances not reasonably within the control of the Company shall not entitle the Customer to cancel any order or to refuse to accept delivery.

Notwithstanding that the title to the Goods may not have passed, the risk in the Goods shall pass to the Customer upon delivery.

When the Company is required to procure overseas Goods to fulfil an order, the order is subject to confirmation by the Company and it is also subject to an import licence being available if and when required.

Force Majeure

Should the Company be delayed in or prevented from making delivery owing to any cause whatsoever beyond the Company's control, including but not limited to Acts of God, war, strike, riots, government intervention, industrial stoppage or natural disaster or otherwise, the Company shall be at liberty to cancel or suspend any affected order without incurring any liability for any loss or damage resulting there from.

Insurance

Insurance will not be effected by the Company on Goods forwarded from the Company's premises unless the Company receives written instructions from the Customer to insure.

Cancellation of Order

Once an order has been accepted and invoiced by the Company it may not be cancelled for any cause whatsoever without the Company's consent in writing. Where such cancellation is agreed, the Customer will cover all costs in returning the Goods to the Company and ensure that the Goods are insured in transit and returned to the Company's premises in original unmarked packaging including all original documentation and accessories. Such an order cancelled by the Customer will incur a re-stocking fee of a minimum of \$30.00, or 15% of the invoiced value of the Goods, whichever is the greater.

Upon a Customer placing a special order or an indent order of Goods that are of a special nature or quantity, the Customer will be deemed to have invited the Company to allocate or order Goods or additional production time for its fulfilment and to have agreed that the Customer's order will be irrevocable pending acceptance or rejection by the Company within a reasonable time.

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Returns

Before returning any Goods, an RMA (Return Merchandise Authorization) number must be requested and issued. Goods will not be accepted, credited or replaced without the RMA number stated on the returned Goods. Consumable items are not eligible for credit or return unless otherwise agreed by the Company in writing. Unauthorized returns will not be shipped back to sender except at its expense (a handling fee may also apply).

The Customer may return authorised Goods or parts ("items") using the shipping method of its choice and is responsible for the return shipping charges. The Company recommends that the Customer insures the return shipment as the Company cannot be responsible for damaged or lost shipments. Used or otherwise altered items not in new condition are not eligible for credit. All returns must be received within 45 days of the original order or a credit cannot be issued. Upon receipt of your returned items the Company will inspect them, return them to inventory if in new unused condition and issue the Customer with the credit according to the conditions of the applicable Cancellation of Order.

Ownership

The risk in any Goods supplied by the Company to a Customer shall pass to the Customer when such Goods are delivered to the Customer or into custody on the Customer's behalf. Until the Customer has discharged all outstanding indebtedness to the Company in respect of all Goods, the Company retains ownership in all Goods delivered to the Customer or into custody on the Customer's behalf (Retained Goods).

Until payment in full of such indebtedness for all Goods has been made to the Company, the Customer acknowledges and agrees that: (i) it holds the Retained Goods as fiduciary and bailee agent for the Company; (ii) it will store, at all times, the Retained Goods separately from its or any 3rd party's goods so that they remain identifiable; (iii) it will not encumber or allow any charge or security interest over the Retained Goods except as provided in these Terms and Conditions of Sale; (iv) it will insure the Retained Goods; and (v) the Company is permitted to enter into the Customer's premises without prior notice to inspect and/or repossess the Retained Goods, and to keep or resell any of the Retained Goods repossessed.

If the Customer manufactures, intermingles or deals with the Retained Goods in such a manner that they become an integral part of any other object (Processed Goods) then the Customer holds these Processed Goods on trust for the Company to the extent the Retained Goods are incorporated or used to produce the Processed Goods, until payment in full of such indebtedness for all Goods has been made to the Company.

Unless otherwise directed by the Company, the Customer may, on behalf of the Company, sell the Retained Goods and Processed Goods to a third party in the normal course of trade. The Customer is accountable to the Company for the proceeds derived from the sale of Retained Goods, and in the case of Processed Goods, to the extent the Retained Goods are incorporated or used to produce the Processed Goods. The Customer shall hold such proceeds in trust for the Company in a separately identifiable account for the Company's benefit and must give the proceeds to the Company when asked.

The Customer must maintain separate records in relation to the Retained Goods and Processed Goods, and make these records, Retained Goods, and Processed Goods available for the Company's inspection at any time on reasonable notice to the Customer.

Personal Property Securities Act 2009 ("PPSA")

The Customer acknowledges and agrees that by agreeing to these Terms and Conditions of Sale (in particular, by virtue of the preceding clause headed "Ownership") the Customer grants a security interest pursuant to the PPSA to the Company in any Goods supplied by the Company to the Customer and any proceeds of the sale of such Goods.

The Company may register on the Personal Property Securities Register (PPSR) a security interest or purchase money security interest (PMSI) in the Goods. The Company may, on request, seek reimbursement from the Customer for the costs and expenses incurred by the Company in relation to registering, maintaining or releasing any financing statement or financing change statement (each as defined in the PPSA) in respect of any security interest or PMSI under these Terms and Conditions of Sale.

The Customer undertakes promptly: (i) to do all things, sign any further documents and provide any further information (which information the Customer warrants to be complete, accurate and up-to-date in all respects) which the Company may reasonably require to enable the Company to perfect, and maintain the perfection of, its security interest or PMSI (including by registration of a financing statement or financing change statement on the PPSR); (ii) not to register a financing statement or financing change statement in respect of the Goods without the Company's prior written consent; and (iii) to give the Company no less than 14 days' prior written notice of any proposed change in the Customer's name or any other change in the Customer's details (including, but not limited to, changes in its address, facsimile number or trading name).

The Customer waives its right under section 157 of the PPSA to receive notice of any verification of any registration pursuant to the PPSA.

The Customer agrees that pursuant to section 115(1) of the PPSA and to the maximum extent permitted by law the Customer waives its rights under and with the Company's agreement contracts out of, sections 95, 118, 121(4), 125, 129(2) and (3), 130, 132(3)(d), 132(4), 135 and 142 and 143 of the PPSA.

Evaluation Product

The Company will make Evaluation Product available to the Customer from time to time, to allow the Customer to evaluate product features and benefits prior to purchasing. All Evaluation Product shipped to the Customer will be brand new in unopened factory condition and either wrapped or shipped in an outer carton. Such Evaluation Product is not to be left on the premises of any of the Customer's end users or further installed on trial, unless specifically agreed to in writing by the Company. Evaluation Product is to be returned to the Company within 7 working days unless purchased prior. Returned product is to be shipped freight paid by the Customer, either outer wrapped or packaged so as to preserve the brand new factory packaging. Any missing, marked or damaged product, manuals or accessories, will be charged in full on return. Evaluation Product not returned according to these conditions will be charged in full at the end of the evaluation period. Freight will be credited on Evaluation Product that is returned within the 7 day evaluation period. Insurance and return freight on the Evaluation Product is the responsibility of the Customer.

Confidentiality

From time to time the Company and the Customer may be required to pass on to each other confidential information about their respective businesses or the Customer may be required to pass on to the Company confidential information about its business to the Company for the commercial benefit of both parties. Any such information given by either party will be held by the other party in strict confidence and will not be passed on to any third party or used for any other purpose other than the direct related purpose for which the information was given. Confidential information excludes information which is: (i) lawfully in the public domain before its disclosure or enters the public domain afterwards otherwise than as a result of an unauthorised disclosure; (ii) becomes available to the receiving party from someone lawfully in possession of it who lawfully discloses it on a non-confidential basis; and (iii) is rightfully known by the receiving party before disclosure of it.

No public announcement or press release relating to the Company or the Company's products is allowed without the Company's prior written consent, which will not be unreasonably withheld.

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Warranty

All Goods carry a twelve month, return to base, parts and labour warranty unless otherwise stated. Damage caused by misuse or abuse, electrical damage due to power fluctuations such as surges or spikes, incompatible consumables or software, are not covered under warranty. Consumables or incorrect operation of any Goods according to the manufacturers' recommendations are not covered under warranty. Proof of purchase is to be supplied with all warranty claims.

Unless otherwise stated in writing, where an extended warranty is taken on any Goods, the scope of that warranty will be as per the standard warranty for the extended period taken. An extended warranty may only be taken on new Goods and cannot be taken retrospectively. Any payment for extended warranty must be made at the time of the original product purchase.

Web Access

The Company's web site, www.sektor.com.au provides the Customer with access to product details, specific pricing to the Customer's account, RMA tracking, service job tracking and the ability to view invoices and statements along with other information helpful to the Customer as a reseller of the Company's products (including the Goods), via a secured logon. As this information is confidential to the Customer, a User ID and initial Password will be issued to the Nominated Person on the Account Application form. It is the Customer's responsibility to issue these access codes to other staff within the Customer's organisation should additional access be required. It is strongly recommended that upon receipt and access of the initial Password, that the Nominated Person immediately changes the issued password. If a Password is lost, a new Password will only be issued by the Company to the Nominated Person, unless otherwise instructed in writing by the Customer to the Company. For the avoidance of doubt, these Terms and Conditions of Sale apply to all orders placed by the Customer on the Company via the Sektor web ordering portal. The Company reserves the right to restrict access to the web ordering portal at any time without prior notice to the Customer.

Liability

To the maximum extent permitted by law, the Company shall not be liable for any damages or loss of any kind arising from the failure of Goods to function or operate satisfactorily, nor for any direct or indirect, incidental, special, or consequential damage or loss to property or person whatsoever. The Company accepts no responsibility or liability for incorrect placement of orders, including via the web.

Any representation, warranty, condition or undertaking that would be implied in these Terms and Conditions of Sale by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law. Nothing in these Terms and Conditions of Sale excludes, restricts or modifies any condition, warranty, right or remedy that cannot be excluded, restricted or modified.

The Company's liability for any other liability that has not been excluded, or breach of a condition or warranty that can not be excluded, is limited, at the Company's option, to re-supplying or paying the cost of re-supplying services and repairing, replacing or paying the cost of repairing or replacing Goods. The Company's liability will exclude any indirect, incidental, special or consequential damages or loss, including loss of revenue, profits, savings or data. It does not matter whether the damage or loss was foreseeable, arose from negligence, and even if warning was given of its possibility.

Indemnity

Except to the extent of the acts or omissions of the Company (including negligence) giving rise to any claims, damage, loss, liability or expense whatsoever, the Customer will indemnify the Company against any claims by a third party (including merchants), damage, loss, liability or expense whatsoever (including lawyers' fees on an indemnity basis) that the Company may incur: (i) with respect to any negligent act or omission by, or wilful misconduct of the Customer's employees, agents, contractors, consultants or representatives; or (ii) as a result of: (a) any warranty condition, representation, indemnity or guarantee granted by the Customer or provided by law in addition to or in lieu of the limited warranties specified in the Warranty clause to the extent permitted by law; (b) any omission or inaccuracy in the Customer's marketing and promotional materials that relate to the products; (c) any modification of or addition to the Goods not provided or approved by the Company; or (d) the Customer's failure to comply with these Terms and Conditions of Sale. This clause will not be construed to limit or exclude any other claims or remedies which the Company may assert under these Terms and Conditions of Sale.

Severability

If any term (including any clause, paragraph or phrase) in these Terms and Conditions of Sale is illegal or unenforceable, it is to be severed. The rest of the terms will not be affected.

Governing Law

Any contract to which these Terms and Conditions of Sale apply shall be governed by and construed in accordance with the laws in force in New South Wales and the Customer further submits to the exclusive jurisdiction of the courts operating in New South Wales.

Goods

"Goods" as used in this document means those Goods supplied by the Company and includes but not limited to Barcode Printers, Barcode Scanners, Barcode Verifiers, Consumables, Card Printers, Cash Drawers, EFTPOS Terminals, Keyboards, Kiosk Terminals, Mobile Computing Terminals, POS Printers, POS Terminals, Scanner Scales, Security products and Touch Terminals.

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