

Terms and Conditions

1. General

- a. iScape Pty Ltd will herein after be referred to as the Company.
- b. You, as the Buyer, will herein after be referred to as the Customer.
- c. These Conditions:
 - i. Govern all offers, order confirmations, deliveries and sales of goods by the company.
 - ii. Form an integral part of the sale contract;
 - iii. Supersede all other general conditions and prior verbal representations between the company and the Customer;
 - iv. Operate to the exclusion of any terms and conditions issued by, or any other document or statement of, the Customer whether before or after the date these Conditions come into effect; and
 - v. May only be altered in writing, signed by the Company and the Customer.

2. Acceptance

A quotation is not to be construed as an offer or obligation to sell and the Company reserves the right, as its option, to accept or reject any orders received.

3. Prices

- a. All prices are subject to change without notice and all purchase orders are accepted by the Company, on the condition that they will be invoiced at the prices ruling at the date of despatch. All prices are strictly nett unless where otherwise stated.
- b. Where firm prices are included in a quotation the validity period is seven calendar days from date of that quotation, unless otherwise stated in writing, and thereafter subject to confirmation prior to acceptance.
- c. Unless specifically quoted to the contrary and confirmed in writing, all prices do not include GST, freight or insurance.
- d. A quotation includes only such goods as are specified therein ("Equipment"). Equipment offered ex stock are subject to prior sale and availability should be confirmed at order placement date.

4. Invoicing and Terms of Payment

- a. Payment is to be made in full on Delivery in cash or to a bank account nominated by the company unless the company grants credit terms or in its sole discretion accepts a letter of credit or other security.
- b. The extension of credit to the Customer shall be at the absolute discretion of the company at all times and unless otherwise stated where extended the terms of payment shall be net cash within thirty days of the date of invoice.
- c. The Company may instruct, in writing, that customers forward a partial or full prepayment as way of deposit on purchases at the discretion of the Company.
- d. If the Customer fails to pay the invoice in full to the Company when due, the company will be entitled (in addition to other rights) to:

Microsoft Partner

Silver Application Development
Silver Midmarket Solution Provider

ABN 46114 320 099 8 Evans Avenue iScape Pty Ltd

enquiry@iscape.com.au PO Box 3529 p: 4977 5800

www.iscape.com.au North Mackay Q 4740 f: 4953 2915

- i. cancel or suspend any further Delivery to the Customer under any order; and
 - ii. charge the Customer interest on the overdue amount at a rate equal to the Company's overdraft rate from the date of invoice to the date of final payment.
- e. The Company reserves the right to suspend credit where the Customer is operating outside of the stated credit terms.
- f. The Company encourages electronic payment of all invoices / statements, with the Customer ensuring a correct remittance advice detailing the payment is faxed / emailed to the Company. Payment by cheque and cash is accepted. Payments via Mastercard and Visacard are also accepted but are subject to a 2% surcharge if paid after the invoice due date. The surcharge is waived if payment is received on or before the due date.
- g. Where payments are made contingent upon delivery, erection or test and any of these stages are delayed to suit the Customer's wishes or convenience, or by reason of non-readiness for us to proceed for any other reasons outside the Company's control (such as delay or delivery of material being furnished under separate contract), payments are to be made within the time in which they ordinarily would have been made had there been no such delays, the materials being, if necessary, stored at purchaser's risk and expense.
- h. The Customer will be required to reimburse the Company for all costs and expenses, including but not limited to legal expenses on an indemnity basis, incurred by the Company in pursuing overdue payments.

5. Freight and Insurance

- a. All prices quoted are ex works and exclude freight and insurance unless stated otherwise in writing. The Company ceases to be responsible for the Equipment upon departure from its premises, and therefore will not be liable for any claims whatsoever for loss or damage to the Equipment.
- b. The method of freight should be stipulated at order placement, otherwise Equipment will be shipped via the Company's normal carrier. The cost of such freight will be charged to the Customer at cost plus an administration fee.

6. Packing

Unless agreed otherwise in writing, all Equipment is packed to the satisfaction of the Company. Such packing will be adequate for normal handling and storage but not for exposure to weather or undue extremes of temperature, humidity or vibration. Any other packing requested by the Customer or deemed necessary by the Company will be charged for in addition to the price quoted.

7. Delivery

- a. The delivery period quoted commences from the date the Company receives sufficient information to proceed with supply or from the date the Company receives the Customer's written order, whichever is the later date. Where deposits are required, the delivery period commences from receipt of that deposit. Quoted delivery dates are subject to confirmation at order placement.
- b. Where a specific delivery period has been stipulated, that period is subject to variation, caused by circumstances outside the control of the Company and changes as detailed in Clause 12 below.
- c. The Company reserves the right to deliver and receive payment for any Equipment which form part of an order.
- d. The Company in any event will not be liable to the Customer for any loss of profits or any other consequential loss or damage caused to the Customer by any delay in delivery or any non-delivery of an order or part thereof.
- e. The Customer will be informed by the Company as soon as the probability of a delay is recognised.
- f. Where Equipment is to be supplied by the Customer for inclusion in products to be supplied to the Customer, the responsibility for supply and delivery of the Equipment to the Company lies with the Customer.

8. Installation

Where the installation of Equipment is undertaken by others, the Company does not accept responsibility for the operation of any complete system including Equipment supplied by other manufacturers. Site visits will not normally be undertaken to attend to such systems, but if required, full service rates will be charged for time involved.

9. Credits/Claims>Returns

- a. On receiving the Equipment, the Customer is to inspect the Equipment, exercising such care as is customary or appropriate in the circumstances.
- b. Claims for shortages, returns or overcharges must be in writing and accompanied by a Return Material Authorisation (RMA) Form including details of:
 - i. Invoice or delivery docket number;
 - ii. Date of invoice;
 - iii. Model and serial number(s);
 - iv. Quantity for return or credit; and
 - v. Reason for return or credit directed to the company within the following time limits or prior to installation of Equipment:
 - If ordered in error by the Customer (will incur 10% handling charge), 7 days from delivery date;
 - Supplied in error by the company, 7 days from delivery date;
 - Short supply, 7 days from delivery date;
 - Received damaged, 7 days from delivery date;
 - Pricing error, 7 days from invoice date (if applicable);
- c. Once the RMA number is issued, the Equipment must be returned within 14 days clearly marked with the RMA number.
- d. If the Equipment is not damaged or defective and not returned to us in the original unopened packaging, it may be returned to the Customer at the Customer's cost.
- e. In the event of an incorrect order by the Customer, the Company will use reasonable endeavours to on sell the Equipment ordered; however if

unsuccessful, no claim may be made against the Company by the Customer for the return of the Equipment.

- f. The Company may reject any claims on reasonable grounds.
- g. The company is not responsible for Equipment lost or damaged in transit following Delivery.
- h. No claims will be accepted for return of Equipment after their installation.

10. Cancellation or Variation

- a. A contract may, at the Company's option, be terminated in the event of insolvency of the Customer or of execution being levied against any of the Equipment of the Customer being placed in liquidation, whether voluntarily or otherwise.
- b. An order may be varied only if such variation is accepted by the Company in writing and any variation or cancellation by the Customer (whether or not it has been agreed to by the Company) may only occur on terms which will provide for the Company to be indemnified by the Customer against any loss or damage.
- c. The Company shall not be deemed to have agreed to comply with any specifications and drawings referred to in any order unless such specifications and drawings have been supplied to the Company prior to the commencement of manufacture or delivery of good and signed by the Company.

11. Information, Specification, Literature, Performance

- a. All descriptive speculations, illustrations, drawings, data, dimensions and weights furnished by the Company or otherwise, contained in catalogues, price lists and other advertising matter of the Company are approximate only and are intended to be by way of general description of the Equipment and shall not form part of the contract unless certified by the Company in writing, in which case they shall be subject to recognised tolerances.
- b. All technical information supplied is to be treated as strictly confidential and must not be passed on or copied in part or whole to any third parties without prior written consent of the Company.
- c. The Customer shall assume responsibility for ensuring the capacity and performance of Equipment being purchased is sufficient and suitable for his purpose. Particular note must be made of this condition in relation to products or systems designed to purchasers specific requirements.

12. Design or Specification Changes

Any changes required by the Customer must be requested in writing and will not be deemed to be accepted by the Company until confirmed by the Company in writing. Any changes may affect prices and/or delivery previously noted.

13. Default by Customer

Without limiting any other rights the company may have, if;

- a. The Customer fails to pay any amount owing to the company when it is due;
- b. Any step is taken to enter into any arrangement between the Customer and its creditors;
- c. The Customer ceases to be able to pay its debts as and when they become due or to carry on business; or

- d. Any step is taken to appoint a receiver, receiver and manager, trustee in bankruptcy, liquidator, provisional liquidator or like person of the whole or part of the Customer's assets or business.

The company may:

- a. Require the Customer to pay immediately all amounts invoiced but not yet paid to the company;
- b. Require the Customer to pay in advance of or on delivery; or
- c. Suspend or cease supplying Equipment to the Customer, whether or not the Customer has ordered Equipment that have not yet been supplied.
- d. Terminate the contract.

14. Risk and Title

- a. Risk in the Equipment passes to the Customer on the Delivery.
- b. Despite delivery or the passing of risk, ownership of Equipment remains with the Company until the Company has received full payment for the Equipment.
- c. The company shall at all times be entitled to enter any premises believed to be occupied by the Customer and recover any Equipment sold at any time by the company to the Customer to which title has not yet passed.

15. Guarantee

- a. In this clause, Guarantors means the person executing these Terms and Conditions as Guarantor.
- b. The Company's policy is not to perform services for companies unless the directors of the company are prepared to personally guarantee payment of all costs. If the Customer asking the Company to provide services is a company, then the Company asks that, in consideration of the Company agreeing to do so, the directors of the company jointly and severally indemnify the Company against the non-payment of all costs by the company and undertake and guarantee to pay any such amounts as remain outstanding from time to time. This indemnity applies to this and all future matters where the Company acts on behalf of the company (until the Customer gives the Company notice in writing to the contrary).
- c. The Guarantors hereby guarantee to the Company the punctual payment by the Customer to the Company of all sums of money becoming due, owing or payable by the Customer to the Company under the terms of and or as a result of these Terms and Conditions, including without limitation, in relation to future Equipment and any quotation ("the Guaranteed Monies") at the times and in the manner as set out in these Terms and Conditions or otherwise on demand.
- d. The Guarantors hereby guarantee the due and punctual performance and observance by the Customer of all and any of the covenants, provisions and stipulations on the part of the Customer to be performed and observed under and pursuant to these Terms and Conditions ("the Guaranteed Obligations").
- e. The Guarantors further indemnify the Company against and in respect of any damage, loss, claim, demand, cost, expense or obligation direct or indirect which the Company has or may suffer incur or sustain as a result of the Customer's failure to pay the Guaranteed Monies when due or to perform the Guaranteed Obligations when due.
- f. This guarantee and indemnity shall be a continuing guarantee and indemnity until the whole of the Guaranteed Monies are paid and the whole of the Guaranteed Obligations performed and shall be independent of and in

addition to and in no way affected by any other security instrument or document which the Company may hereafter obtain or hold for any indebtedness or liability whatsoever of the Customer or other Guarantors to the Company.

- g. The liability of the Guarantors shall not be affected or discharged in any way whatsoever in the event that the Company grants or agrees to grant the Customer any time or any other indulgence or consideration or in the event that the Company compounds with or releases or assents to the winding up of the Customer or wholly or partially releases or discharges the Customer from any of the terms of these Terms and Conditions or in the event that the Company varies any of the terms of these Terms and Conditions.
- h. The Company shall not be bound at any time to exercise any of its rights under these Terms and Conditions or in any collateral or other contract and any omission failure of refusal by the Company so to do shall not prejudice, affect, discharge or diminish any of the liabilities of the Guarantors hereunder and the liability of the Guarantors hereunder shall not be affected or discharged by any other laches or mistakes on the Company's part.
- i. If by reason of any statute, rule of law or for any other reason whatsoever any covenant, term or condition of these Terms and Conditions is rendered unenforceable by the Company against the Customer then the Guarantors agree hereby at all times to indemnify the Company to the full extent in respect of the Guaranteed Monies or any part thereof which have thereby been rendered unrecoverable by the Company from the Customer.
- j. For the purposes of this guarantee, the Guarantors may be treated as the principal debtors under these Terms and Conditions (or any contract or agreement created pursuant thereto) and the Guarantors waive all rights either at law or under any statute that the Guarantors might otherwise be entitled to claim or enforce in respect thereof.
- k. Any notice or consent to be given or any demand to be made by the Company to the Guarantors under or pursuant to this guarantee may be given or made by writing under the hand of the Company or of any manager, acting manager, clerk, solicitor or any other person acting on behalf of the Company and may be delivered by prepaid post addressed to the Guarantors' addresses stated herein and any such notice consent or demand shall be deemed to have been received by the Guarantors on the day after posting or sending.
- l. The Guarantor hereby acknowledges and permits the Customer to place orders pursuant to these Terms and Conditions and that the guarantee herein shall include any liability or obligation owing by the Customer to the Company under such orders.

16. Charge and Mortgage

The Customer and each Guarantor hereby charges all of their respective real and Personal Property wheresoever situated with the amount of moneys owed by the Customer to the Company under these Terms and Conditions or otherwise. As further and better security for the payment of all money from time to time owing by the Customer to the Supplier, the Customer and each Guarantor mortgage and charge to and in favour of the Company all right, title, estate and interest which it owns, holds or may hold hereafter in any real or personal property in Australia. The Customer and each Guarantor shall, at the request of the Company, sign execute and deliver in favour of the Company such mortgage, charge and/or Security Interest over the Customer's real or Personal Property in such form as the Company may require, such document or documents incorporating such terms as determined by the

Company's solicitors, to protect the interest of the Company herein, within 10 days of the Company requesting the same of the Customer and/or the Guarantor.

For the avoidance of any doubt, the Customer and each Guarantor confirms that the Company has a caveatable interest in any land of which they are the registered proprietor for the purposes of the Land Title Act 1994 and its equivalent in another jurisdiction.

17. PPSA

- a. This clause applies to the extent that these Terms and Conditions (or any contract or agreement arising pursuant thereto) provide for a Security Interest for the purposes of the PPSA.
- b. The rights of the Company under this document are in addition to and not in substitution for the Company's rights under other law (including the PPSA) and the Company may choose whether to exercise rights under these Terms and Conditions, and/or under other law, as it sees fit.
- c. The Customer acknowledges that if the Company's interest under these Terms and Conditions, and any other related document(s), is a Security Interest for the purposes of the PPSA then that Security Interest relates to the Personal Property and all Proceeds of any kind and these Terms and Conditions are a security agreement for the purposes of the PPSA.
- d. The Company may register its Security Interest on the PPSR (including, without limitation, as a PMSI). The Customer must do anything (such as obtaining consents and signing documents) which the Company requires for the purposes of:
 - i. ensuring that the Company's Security Interest is enforceable, perfected and otherwise effective under the PPSA;
 - ii. enabling the Company to gain first priority (or any other priority agreed to by the Company in writing) for its security interest; and
 - iii. enabling the Company to exercise rights in connection with the Security Interest.
- e. The Customer must pay on demand to the Company the Documentation Costs.
- f. If Chapter 4 of the PPSA does apply to the enforcement of a Security Interest arising under or in connection with the these Terms and Conditions and to the maximum extent permitted by law, the Customer agrees that sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 132(3)(d), 132(4), 134(1); 135, 142 and 143 and Division 6 of Part 4.3 of the PPSA will not apply to the enforcement of that Security Interest.
- g. Where a person is a Controller in relation to the Personal Property, the parties agree, to the maximum extent permitted by law, that Part 4.3 of the PPSA will not apply to the enforcement of any Security Interest in the Personal Property by that Controller.
- h. The Customer waives its right (including, without limitation, under s 275) to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.
- i. The Customer must not assign or grant a Security Interest in these Terms and Conditions or any of its rights or obligations under these Terms and Conditions without the prior written consent of the Company.
- j. The Customer must not create, purport to create or permit to be created any Security Interest in the Goods and/or Services or lease, hire, bail, sell or give possession of the Goods and/or Services to anyone else other than with the express written consent of the Company.

- k. In this Clause the following terms shall have the meaning defined herein:
- i. **Controller** has the same meaning as in the PPSA.
 - ii. **Documentation Costs** means all fees and outlays associated with the registration of any Security Interest on the PPSR.
 - iii. **Grantor** means the Customer.
 - iv. **Personal Property** has the same meaning as in the PPSA as it relates to:
 - all personal property of the Grantor, including without limitation present and after acquired property of the Grantor;
 - any personal property provided by the Secured Party to the Grantor on a retention of title basis;
 - any personal property leased or provided on bailment by the Secured Party to the Grantor; and
 - including without limitation, any Proceeds associated with the above personal property.
 - v. **PMSI** means a purchase money security interest as defined in the PPSA.
 - vi. **PPSA** means the Personal Property Securities Act 2009 (Cth) and any regulations made pursuant to it.
 - vii. **PPSR** means the Personal Property Securities Register established pursuant to the PPSA.
 - viii. **Proceeds** has the same meaning as in the PPSA. ix. **Security Interest** has the same meaning as in the PPSA.
 - x. **Secured Moneys** has the same meaning as defined in these Terms and Conditions.
 - xi. **Secured Party** means the Company or any lawful assignee, transferee or successor of the Company in relation to the Security Interest, these Terms and Conditions and any other related document(s).

18. Attorney

For the purpose of giving full effect to these Terms and Conditions, and the powers hereby conferred, whilst any moneys now or from time to time are owing by the Customer to the Company, the Customer appoints the Company and any of its authorised officers, jointly and each of them severally, the true and lawful attorney of the Customer, to do anything in the name of the Customer, as the case may be, or of the Company, which the Customer, should do or should have done hereunder and to do all such acts, matters and things (including the execution of any deed, mortgage, bill of sale, charge, share transfer, transfer of land, any document in relation to any financing statement or financing charge statement under the PPSA, or any document in relation to any Security Interest, or any security agreement and other documents whatsoever) as such attorney may deem expedient for carrying out, or in connection with the exercise of all or any of the rights or powers herein contained or implied, to give effect to these Terms and Conditions.

19. Data Loss and Warranties

iScape is not responsible for any loss, corruption, or breach of the data on customers' product during service; and as loss of data may occur as a result of the service, it is the customers' responsibility to make a backup copy of their data before bringing the product to iScape for service, unless the customer has signed a service agreement.

Returned computers/goods under warranty will be repaired, or replaced, or refunded at iScape's sole discretion.

There is no warranty for the following:

1. Data recovery services.
2. Removing or installing non-electronic components or parts (ie removing jammed CD/DVD from CD/DVD drive).
3. Installing or uninstalling software and programs (ie installing/uninstalling antivirus software or any other software).
4. Removing passwords.
5. Cleaning spilt liquid in computers.
6. Installing hardware and/or software that are not manufactured by iScape.
7. restoration of your personal data/software applications/emails or any other data. It is the customer's responsibility to backup such data.

VIRUS AND SPYWARE RE-INFECTION: It is often possible for a computer to be reinfected with the same spyware and virus that have been removed by our technicians. Spyware infection and reinfection can be as easy as visiting a bad website, or opening an email attachment. If our technicians have provided you with the instructions and recommendations on protection software and you have not followed the recommendation, we cannot service your warranty claim for the reappearing problem.

All Electronic Components constituting a system are covered by their respective Manufacturers. The warranty can range from one year to lifetime depending upon the component.

Software problems, corruptions, virus, spyware, malware, hardware / software conflicts and incompatibilities are excluded from hardware warranty and will be subject to an appropriate labour charge as per the current charge schedule.

Warranty does not cover software, software configuration and any accessories or parts added to computer system after the date of purchase.

HARDWARE / SPARE PARTS / COMPONENTS WARRANTY

Unless otherwise stated, iScape warrants that the computer product(s) purchased by you will be free from defects in materials and/or workmanship under normal use for a period of one (1) years from the date printed on Tax Invoice with the following EXCEPTIONS:

1. iScape does NOT warrant any third party hardware and/or software products, including the Operating Systems preinstalled by iScape technicians.
2. The warranty does not cover customer's data and the costs resulting from the reinstallation and/or restoration of the software or operating system as the result of the repair or replacement of the defective hardware products. It is solely customer's responsibility to

backup important data before returning hardware, spare parts, components, or systems to iScape for warranty claim. Unless there is a signed Managed Service Agreement in place

3. Defective accessories or peripherals, other than software, that are delivered with your product will be replaced by iScape or its suppliers for thirty (30) days from the date you received your product. Manufacturers' warranty applies after initial thirty (30) days.

Including the warranties of merchantability and fitness for a particular use, iScape disclaims all other warranties, expressed or implied, including without limitation implied warranties of merchantability and fitness for a particular use.

Except for the obligations set forth in this warranty statement iScape shall not be liable for any direct, indirect, special, incidental, or consequential damages including without limitation any liability for losses in profits, losses in revenue, losses in savings, losses of data, downtime, costs of capital, cost of replacement equipment (temporary or permanent), costs of time, third parties' claims or injury to property.

The limit of the liability of iScape to repair its computer product after a reasonable amount of time and a reasonable number of attempts shall be the replacement of the iScape computer product or a refund of the market value of the computer product. The decision regarding replacement versus refund shall be at the sole discretion of iScape.

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Executed as a Deed

Signed on behalf of **iScape Pty Ltd ACN 114 320 099** by its authorised representative(s) this _____ day of _____ 20__

Print name: _____
Capacity: _____

Print name: _____
Capacity: _____

In the presence of

Witness

Witness

Signed on behalf of the **Customer**

by its authorised representative(s) this _____ day of _____ 20__

Print name: _____
Capacity: _____

Print name: _____
Capacity: _____

In the presence of

Witness

Witness

Signed by the **Guarantor**

Signed by the **Guarantor**

Print name: _____
Capacity: _____

Print name: _____
Capacity: _____

In the presence of

Witness

In the presence of

Witness