

GENERAL TERMS AND CONDITIONS

SPIDERTECH PTY LTD - October 2020

The contract between Spidertech Pty Ltd (Spidertech) and the Customer, and permitted subcontractors, relating to any of Spidertech Pty Ltd products or service or transactions are subject to these Terms and Conditions of sale. Unless otherwise agreed in writing, these Terms apply to and form part of all agreements for the supply of products and related services by Spidertech to the Customer (Contract).

Definitions:

Seller means Spidertech Pty Ltd, its successors and assigns or any person action on behalf of and with the authority of Spidertech Pty Ltd.

Customer means the person/s buying the Goods as specified in any invoice, document or order, and if there is more than one Buyer is a reference to each Buyer jointly and severally.

Goods means all Goods or Services supplied by the Seller to the Buyer at the Buyers request from time to time (where the context so permits the terms Goods or Services shall be interchangeable for the other).

Price means the Price payable for the Goods as agreed between the Seller and the Buyer.

1. Title

- 1.1. Subject to these terms, legal and equitable title in the products shall remain vested in Spidertech and shall not pass to the customer until the customer has paid the purchase price and all other moneys owed by the customer to Spidertech in full. In the event of default by the customer of any of these terms, including the payment of monies due under these terms, the customer acknowledges and agrees that Spidertech may recover or retake possession of all or any of the products supplied to the customer; and the customer hereby authorises and allows Spidertech or its representative, servant, agent or employee to enter without notice and at any time, at any premises where any of the products are housed or stored for the purpose of retaking possession of all or any of the products. Spidertech shall not be liable for any costs, losses or damages (including any required remedial/recertification works required post removal of the products), expenses or any other monies or losses suffered by the customer as a result of Spidertech taking possession of the products.
- 1.2. Until payment in full, the customer agrees to provide adequate insurance for the products.
- 1.3. Risk passes to the Customer when Spidertech delivers the Products, either to the Customer's store, or to the specified carrier's depot or completes service.

2. Cancellation of orders

- 2.1. Spidertech will generally accept cancellation of an order where;
 - i The product is a stocked item; and
 - ii Written advice of cancellation is received prior to dispatch or application of services.
- 2.2. Cancellation of orders or products which have been custom made, custom processed or specifically acquired or made specifically to suit customer specifications, will result in charging of all relevant costs to the customer's account, this includes all incurred costs. These products are also made/procured on the undertaking that the customer will accept delivery of, and effect payment for.

3. Prices

- 3.1. Prices quoted exclude GST, unless otherwise specified.
- 3.2. Spidertech will endeavour to provide 30 days-notice of any identified price increases.
- 3.3. Written quotes and contract prices will stay fixed for the duration of the stated period, where a period is not stated, 30 days shall apply.

4. Quotations

- 4.1. Unless otherwise specifically stated, all Spidertech tenders and quotations, are:
 - i Based on receiving an order;
 - ii Effective for the quotation only;
 - iii Are valid for 30 days from the creation date;
 - iv Exclude GST.
- 4.2. Spidertech has the right to terminate the tender or quotation at any time and is not liable for any termination charges.

5. Goods and Services Tax (GST)

- 5.1. Prices quoted do not include GST unless otherwise stated, and where applicable this will be charged as a separate item on the invoice.
- 5.2. The GST charged for the products and services we supply will generally qualify as a recovered input tax credit for our customers who are registered for GST and have an ABN. Your own tax advice should be sought in this regard.

6. Payment Terms

- 6.1. Terms of sales are strictly nett 30 days from the end of month purchase. However, some products that require procurement are due and payable in advance and upon placement of an order with Spidertech; these items shall be nominated within the tender and/or quotation.
- 6.2. Any expenses incurred by Spidertech in recovery of debt are to be met by the Customer. This will not apply in cases where non-payment of an account is entirely due to fault on part of Spidertech.
- 6.3. Should the Customer default in the payment of any monies due under the Contract, the all monies due to Spidertech shall immediately full due and payable and shall be paid by the Customer within 7 days from the date of demand. Spidertech shall be entitled to charge interest at the rate of 15 percent per annum over the actual date of payment.
- 6.4. Further to any other rights or remedies Spidertech may have under this contract, if a customer has made payment to Spidertech by credit card, and the transaction is subsequently reversed, the customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Spidertech where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Buyers obligations under this agreement.

7. Delivery

- 7.1. Spidertech reserves the right to withhold any delivery if the customer is subject to any insolvency proceedings, or if Spidertech forms the opinion that the customer's credit worthiness or credit standing has deteriorated significantly.
- 7.2. Spidertech will strive to ensure deliveries (and or services) are made on time, however any times quoted for delivery are to be treated as estimates only and involving no contractual obligations.

8. Designs

- 8.1. Where the Customer asks Spidertech to follow any designs or instructions, the customer hereby indemnifies Spidertech against all damages, penalties, costs and expenses arising from any infringement of a patent, trademark, registered design, copyright or common law right with respect to those designs or instructions.
- 8.2. The customer warrants that any designs or instructions given to Spidertech will not cause Spidertech to infringe any patent, registered design, trademark, copyright or common law.

9. Intellectual Property

- 9.1. The Customer acknowledges that Spidertech is the owner and holds all the rights, title and interest in the various patents, inventions, designs, copyright, trademarks, trade names, business names, corporate names, logos, get up, circuit layouts, know-how, trade secrets and confidential information held by Spidertech - Spidertech Pty Ltd's intellectual property (IP).
- 9.2. The Customer will not attempt to seek or claim any interest in Spidertech's IP or assist any other part to assert any interest in Spidertech's IP.
- 9.3. The Customer acknowledges that any improvement or enhancement of Spidertech's IP which may result from work performed by the Customer shall remain the exclusive property of Spidertech and the customer irrevocably assigns to Spidertech all right, title and interest the customer may have in any improvements or enhancements to Spidertech's IP.
- 9.4. The customer will not hinder Spidertech in any application or other measure take by Spidertech to protect or exploit improvements to Spidertech's IP.

10. Customer Supplied Components

- 10.1. Spidertech will endeavour to take good care of any Customer supplied components but Spidertech accepts no liability for damage or destruction of components that may occur whilst these are on our premises, this includes Spidertech sites.

11. Warranty Claims

- 11.1. Except to the extent required by law, all consumer guarantees, representations, warranties, terms and conditions in relation to the products and services (whether implied or otherwise) are hereby excluded to the maximum extent permitted by law.
- 11.2. The customer agrees that if it is aware (or should be aware) that the products or services, the subject of any order, are for any particular purpose (including but not limited to, use as a component part of another product) or are required to possess special or uniform characteristics, the customer will clearly identify and disclose that purpose of those characteristics in any order for the products or services.
- 11.3. To the maximum extent permitted by law:
 - i. Spidertech shall not be liable in respect of any defective products unless the customer notifies Spidertech in writing of its claim within seven (7) days from delivery and give Spidertech reasonable opportunity to investigate the claim, Failure to so notify Spidertech in this timeframe shall be deemed to be unqualified acceptance of the delivery;
 - ii. Despite clause 11.3(i) , Spidertech shall have no liability for, and will not accept any claims for products which, after delivery pursuant to clause 1.3 of these Terms:
 - a. Are not intact and in original condition;
 - b. Have been altered, improperly stored or handled, or suffered damage or deterioration; or
 - c. Have been affixed, used or applied in any way.
 - iii. Except as stated in these Terms, Spidertech shall not be liable for any losses or damages incurred by the customer or any third party in relation to the products or these terms including any damage to property.
 - iv. Except as set out in these Terms, no other term, condition, warranty, representation and/or understanding whether expressed or implied, in any way extending to, or otherwise relating to or binding upon Spidertech, is made or given by or on behalf of Spidertech in respect of the products.
 - v. Spidertech's liability to the Customer (and any party claiming through the customer against Spidertech) for any claim for loss or damage (including legal expenses) made in connection with the contract for breach of contract for breach of contract, tort (including negligence), under statute, in equity, at common law or otherwise shall be limited at Spidertech's discretion, to the following:
 - a. Where Spidertech has supplied products; Spidertech's liability shall be limited to replacement of the products or supply of equivalent products, or repairing the products, or crediting the customer for the price of the products as the date of delivery, or paying the customer the cost of repairing of the products (with such cost having prior written approval by Spidertech).
 - b. Where Spidertech has supplied services; Spidertech's liability is limited to the provision of the services again or payment of the costs of having the relevant services provided again at Spidertech's option.
 - vi. Spidertech will not be liable for any loss or damage caused by the negligence of the customer or any third party acting on behalf of the customer. This includes any loss or damage caused by the supply by the customer or third party on behalf of the customer of incorrect manufacturing instructions, drawings or material specifications, and faulty installation or misuse of the product by the customer or a third party.
 - vii. Spidertech will not be liable for any contingent, consequential, direct, indirect, special or punitive damages whether due to negligence or otherwise, and the customer acknowledges this limit of liability and agrees to limit any claim accordingly.

12. Exclusions

- 12.1. Except if and to the extent applicable law requires otherwise the customer agrees that:
 - i. Without limiting or affecting clause 12.1(iv), no dealing between Spidertech and the customer shall be or deemed to be a sale by sample;
 - ii. It shall rely on its own knowledge and expertise in selecting products for any purpose and any advice or assistance given by or on behalf of Spidertech shall be accepted at the customer's risk and shall not be deemed to have been given as expert or adviser nor to have been relied upon;
 - iii. Spidertech shall not be liable under these Terms in respect of any products to the extent that any third-party manufacturer is liable under a manufacturer's warranty for such products (the benefit of

which Spidertech will, to the extent possible, extend to the customer);

- iv. Spidertech shall not be liable nor responsible for any failure to comply with any requirements of the customer of any other person (whether relating to manufacture, design, fabrication, installation and/or any other particular intended for use of any products and/or otherwise) which are not precisely and accurately communicated in writing directly to the appropriate personnel at Spidertech and accepted in writing by Spidertech prior to delivery of the products under these terms.

13. Returns

- 13.1. Spidertech will always endeavour to accept returns in order to offer the best service, however, except in the case of defective products (in which case clause 11 of these Terms will apply) standard stocked items will only be accepted for return with our prior agreement, and only if the products and packaging are in original condition, and free from damage and blemishes, and no more than two (2) weeks have passed since the delivery date.
- 13.2. To process any claims or returns relating to standard and stocked items, Spidertech needs to be advised of the original invoice number and the reason for the credit request, within 14 days from the date of invoice. Despite any other provisions of these terms (and expect in the case of defective products, in which clause 11 of these Terms will apply) products "Made to Order" or "Specials" are not refundable.

14. Default

- 14.1. The Customer will be in default in any of the following occurs:
 - i. Customer breaches these Terms; and/or
 - ii. Payment for the products or services has not been received by Spidertech by the due date of payment; and/or
 - iii. The customer is subject to any insolvency proceedings.
- 14.2. If the customer defaults, Spidertech may:
 - i. Treat the whole of the contract and any other agreement with the customer as repudiated and sue for breach of contract; and/or
 - ii. Claim the return of any products in the customer's possession where title has not passed to the customer; and/or
 - iii. Refuse to supply any products or services to the customer; and/or
 - iv. Without notice to the customer withdraw or vary any credit Spidertech has provided to the customer; and/or
 - v. Without notice to the customer make all monies owing by the customer to Spidertech on any account immediately due and payable.

15. No Reliance

- 15.1. The Customer acknowledges and agrees that it has not relied on any prior representation or promises made by Spidertech except as set forth herein.

16. Force Majeure

- 16.1. Spidertech shall not be responsible for:
 - i. Any delay or failure of performance occasioned or caused by strikes, riots, fire, insurrection, embargoes, failure of carriers, inability to obtain materials or transportation facilities, acts of God or of the public enemy, government tariffs and quotas, compliance with any law, regulation or other governmental or court order whether or not valid, or other causes beyond the control of Spidertech, irrespective of whether the cause could be alleviated by the payment of money, or the performance is prevented or delayed because of the failure of Spidertech's equipment, or failure of a supplier to Spidertech.
 - ii. Delays caused by inclement weather and/or the suspension of works for that reason is the sole right and responsibility of Spidertech, and if such is to occur, Spidertech will incur no penalty, a minimum call out fee is four (4) hours per person shall apply plus associated costs e.g. accommodation and LAHA.
 - iii. Delays caused by the customer or others in restricting access to work areas or suspension of works, Spidertech will incur no penalty, a minimum of call out fee is four (4) hours per person shall apply plus associated costs e.g. accommodation and LAHA.

17. No Waiver

- 17.1. No failure or delay by Spidertech in exercising any right, power or privilege to which it is entitled shall operate as a waiver, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise. These terms and obligations and acknowledgements hereunder may only be waived or modified by Spidertech by an agreement in writing between the parties hereto.

18. Severance

- 18.1. In the event of any part of these terms becoming void or unenforceable, then part shall be severed from and the remaining terms and provisions hereof shall remain in full force and effect.

19. Extensions of Time

- 19.1. Spidertech shall supply the goods and services hereunder within the time required by the contract. Spidertech shall be entitled to a reasonable extension of time for the performance of its obligations hereunder where any of the following causes delay to Spidertech:
- i Variation in the scope of supply;
 - ii Obstructions or conditions which could not have been reasonably foreseen by Spidertech;
 - iii Change in law;
 - iv Any act or omission of the customer or any contractor, consultant, representative or agent thereof, including but not limited to failure to confirm a start date and failure to provide access;
 - v Force Majeure;
 - vi Delays of municipal, government or statutory authorities.
- 19.2. Where the customer requests additional work and/or make a variation in the contract, the customer shall give timely notice to Spidertech, in consideration of the extent of additional works or services required, to ensure scheduled completion date is not delayed. Spidertech reserves the right to claim all costs and expenses associated with any delay arising in the event the delay is the result of customer's late notice to Spidertech.
- 19.3. The Customer shall Spidertech the reasonable costs incurred (including waiting time, staff cost including accommodation, together with off and on site overheads) as a result of obstruction and/or delay caused by matters referred to in clause 19.1.
- 19.4. In the event the customer fails to make payment when Spidertech may suspend performance of the contract until such time as payment is made and Spidertech shall be entitled to a corresponding extension of time for performance.
- 19.5. If by reason of failure to perform its obligations hereunder by the time or times set out in the contract, Spidertech incur liability to the customer then such liability shall be limited to the payment of damages not exceeding 0.25% of the contract price for each full week of delay provided always that the liability of Spidertech for or in respect of any and all delays shall not in the aggregate exceed 3% of the contract price. Where a delay by Spidertech does not result in any real loss or detriment to the customer, Spidertech shall not be liable for any delay claim.

20. Variations

- 20.1. Unless otherwise agreed any variation to the goods or services to be supplied hereunder shall be valued in accordance with Spidertech's Schedule of Rates for variations existing at the time goods or services the subject of the variation are supplied.
- 20.2. Where any of the matters referred to in clause 20.1 reasonably require a change in the goods or services to be supplied or the conditions in which Spidertech is to perform its obligations hereunder then Spidertech shall be entitled to vary the goods or services in such a manner as Spidertech reasonably considers necessary and the value of such variation valued in accordance with clause 20.1 shall be added to or deducted from the contract price as the case may be.

21. Applicable Law

- 21.1. These Terms shall be governed by a construed in accordance with the laws of the State of Tasmania, Australia. The parties hereby agree to submit to the non-exclusive jurisdiction of the Tasmanian Courts and any court which may hear appeals there from.

22. Survival

- 22.1. The clauses in these terms headed Designs, Intellectual Property, Warranty Claims, Competition and Consumer Act 2010, Personal Property Securities Act 2009, No Reliance, and Force Majeure shall survive the termination or expiration of the Contract.

23. Confidentiality

- 23.1. Both parties must:
- i Keep confidential and not (without the other party's prior consent) disclose to third parties or use for any purpose (other than carrying out the supply) any information about the contract, the supply or [the other party] whether provided by or on behalf of [the other party] or otherwise, except to the extent a party is required to make such disclosure by law or such information is already generally known to the public; and

- ii Use its best endeavours to ensure that its employees, agents and subcontractors comply and execute all documents that may be required by either party to protect the such confidential information.

24. General

- 24.1. The failure by Spidertech to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Sellers right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired. These terms and conditions and any contract to which they apply shall be governed by the laws of the state in which the Seller has its principal place of business and are subject to the jurisdiction of the courts in the state.
- 24.2. Spidertech will commence work only when we have received a company purchase order or signed quotation, instructing Spidertech to proceed with the work.