

1. DEFINITIONS

In these terms and conditions, the following terms shall have the respective meanings indicated, such meanings to be applicable to both the singular and plural forms of the terms defined:

"Seller" means Kiltech Pty. Ltd/ Kiltech Inc.

"Customer" means the person or company placing an order for Products supplied by the seller.

"End User" means any person who purchases Products from Customer.

"Order" means the order placed by the Customer with Seller for the supply of the Products and Services.

"Delivery Point" means the Sellers or its vendor's facilities.

"Exhibit" means an exhibit attached to this agreement.

"Products" means any Hardware, Software, Goods, Accessories, and Spare Parts the subject of the Order being placed with the seller.

"Services" means any training, consultancy or other service performed by Kiltech.

"Trademark" means any trademark, logo, service mark or other commercial designation, whether or not registered, used to represent or describe the Products of Seller.

2. ACCEPTANCE OF ORDER

- a) Each order for Products submitted by Customer to Seller shall be subject to the written acceptance of Seller, and Seller may, in its own discretion, accept or reject any order for Products without obligation or liability to Customer by reason of its rejection of any such request.
- b) Each order for Products issued by Customer to Seller under this Agreement shall identify that it is an order and shall further set forth the delivery date or dates and the description and quantity of Products which are to be delivered on each of such dates. An order for Products shall not provide a delivery date less than 45 days after the date that order is delivered to Seller.
- c) The Seller shall not be deemed to have accepted an Order until an order acknowledgement is issued by the Seller to the Customer and deposit monies are received in full to the Sellers banking institution.
- d) All orders are subject to a 40% deposit, to be received in full to the Sellers banking institution prior to acknowledging an order from the Customer
- e) The individual contracts for the sale of Products formed by Customer's submission of orders to Seller pursuant to the terms and conditions hereof shall automatically incorporate, to the extent applicable, the terms and conditions hereof, shall be subject only to those terms and conditions (together with all terms in orders which are contemplated by this Agreement) and shall not be subject to any conflicting or additional terms included in any documents exchanged in connection therewith.
- f) Acceptance of Products or Services pursuant to an order confirmation shall be deemed conclusive evidence of the Customers acceptance of these terms and conditions

3. SELLER DETAIL AND DATA PROTECTION

- a) The personal details of Customer, including name, address, contact numbers, credit card, bank details, and transaction details (including its representatives) are only held by the Seller for account and order administration, marketing and better communications.
- b) It is the responsibility of the Customer to ensure that its personal data is accurate at all times, informing the Seller of any amendments.

4. PRICE AND PAYMENT

- a) The price stated in the Sellers quotation for Products excludes the cost of delivery (which will be invoiced to the Customer) and any value added or other tax duty or charge which may be imposed upon the production, storage, sale, transportation, import or export of the Product. Any such tax, duty or charge shall be for the account of the Customer.
- b) Unless otherwise specified the Seller will invoice the Customer in US Dollars.
- c) The Seller is entitled to interest on any unpaid invoices from the due date of 5% for each month overdue.
- d) No discounts will apply for early payment
- e) Unless Seller approves the Customers credit application, payment shall be due no later than thirty (30) days after the Seller invoice.
- f) If the Customer does not comply with the payment terms, the Seller may suspend or cancel delivery of Products and Services.

5. PRICE CHANGES

- a) Seller reserves the right, in its sole discretion, to change prices or discounts applicable to the Products.
- b) Seller shall give written notice to Customer of any price change at least 60 days prior to the effective date thereof. The price in effect as of the date of Customer's receipt of notice of such price change shall remain applicable to all orders received by Seller prior to that effective date.

6. RISK AND CANCELLATION

- a) All deliveries of Products sold by Seller to Customer pursuant to this Agreement shall be made F.O.B. the Delivery Point, and title to and risk of loss of Products shall pass from Seller to Customer at the Delivery Point. Customer shall be responsible for arranging all transportation of Products, but if requested by Customer, Seller shall, at Customer's expense, assist Customer in making such arrangements. Customer shall also procure insurance for the transportation of the Products, and such insurance shall be of a kind and on terms current at the port of shipment. In the event that Seller is requested to assist Customer in arranging for transportation, Customer shall reimburse Seller for all costs applicable to the Products following their delivery to Customer, including, without limitation, insurance, transportation, loading and unloading, handling and storage. Customer shall pay all charges, including customs duty and sales tax, incurred with respect to the Products following their Delivery to the carrier or forwarder.
- b) The Customer is entitled to return of unwanted Product to the Seller at its cost within thirty (30) days of delivery subject to a restocking fee of \$100.00 (USD) or 20% of the purchase price (whichever is greater) and the Customer having obtained written approval for the return of such Product. No returns will be accepted more than thirty (30) days after the date of delivery and must be received in their original packaging.
- c) Any cancellation of orders by Customer shall be in writing, or if not initially in writing, shall be confirmed in writing. If Customer cancels an order, which has been accepted by Seller, Customer shall reimburse Seller for any cost incident to such order incurred by Seller prior to the time it was informed of the cancellation.

7. LIMITED WARRANTY

- a) The following clause specifies the extent to which the Seller will be liable for default. Its principle terms are a financial limit on Sellers liability; the liability of Seller only for certain defined losses and a time period applicable for both parties for the enforcement of claims. Seller's entire liability and Customer's sole remedy, whether in contract, tort or otherwise, shall be as set out in this clause.
- b) Except as expressly provided in this clause, all conditions, representations and warranties (express or implied, statutory or otherwise) are excluded to the extent permitted by law including without limitation any implied warranties or conditions as to qualify fitness for purpose or quality of service.
- c) Subject to the terms of this clause Seller warrants to Customer that:
- d) Products (hardware) are free from defects in materials and workmanship for a period of eighteen (18) months from invoice date or twelve (12) months from commissioning date – which ever expires first.
- e) Software products will execute the programming instructions provided by the Seller, based on the functional specifications provided by the Customer, if used/ applied correctly and under normal use.
- f) Defect notification is received in writing by the Seller within the warranty term.
- g) The Seller receives a warranty Order, to initiate either part replacement(s) to be sent or carry out investigation on alleged defective parts.
- h) The Seller shall at its discretion repair or replace all Products which fail to conform to the functional specification as requested by Customer.
- i) Allegedly defective products are returned to Seller, with Seller's authority within thirty (30) days of failure mode becoming apparent at the Customer's cost.
- j) The Products have not been altered, misapplied, incorrectly installed or used with unapproved components
- k) Replacement parts shall have the applicable warranty for the remainder of the original warranty term.
- l) For Products returned under warranty that are found to be functioning as designed, the Products shall be returned to the Customer. The Customer in this case will be liable for the investigation and testing activities.
- m) The above warranty is void if:
- n) The Product (hardware or software) is not used in accordance with the instructions provided by Seller.
- o) The product is altered, modified in any way by Customer or its service representatives.
- p) The product malfunctions due to any external problem of third party auxiliary devices
- q) Seller shall not be liable for any consequential losses, damages, lost production time, spoilage or associated labour costs to replace/ repair defective components.

8. CUSTOMER SALES, SERVICE AND STORAGE FACILITIES

- a) The Customer shall, at its expense, engage and maintain a sales, service and parts handling organization in the Territory, staffed with such experienced personnel as are necessary to enable distributor to perform its obligations under this Agreement.
- b) The Customer shall, at its expense, maintain facilities and personnel in the Territory that will enable it promptly and satisfactorily to perform, at a reasonable price, all inspection, maintenance and other necessary servicing of Products sold by the Customer. To assist Customer in the discharge of this service and maintenance function, Seller shall provide at the expense of the Customer in all things service and maintenance training, to any reasonable number of Customer's personnel as Customer shall designate.
- c) The Customer shall, at its expense, at all times store and maintain its inventory of Products in accordance with current, applicable instructions issued by the Seller from time to time.
- d) The Customer shall, at its expense, deliver one copy of Seller's current, applicable operation and maintenance manual to each End user at the time of sale and, at that time, Customer shall, at its expense, fully explain and demonstrate to the End user the proper method of operating and maintaining the Products.
- e) Customer shall mail to Seller, during the term of the supply Agreement and any extension thereof, prompt written notice of the address of each location at which products are stored, and the address of each facility established by Customer to sell and service the Products. Seller may, through its designated agent, inspect all such locations and facilities and the operations conducted therein at any time during normal business hours.

9. TRAINING OF CUSTOMER

As promptly as practicable after execution of the Agreement, Seller shall transmit to Customer information, materials, manuals and other technical documents necessary to enable Customer to perform its obligations, in particular, to carry out the warranty repairs of the Products. Seller shall continue to give Customer such technical assistance as Customer may reasonably request. Customer shall reimburse Seller for all reasonable out-of-pocket expenses incurred by Seller in conjunction with negotiated daily rate in providing technical assistance.

10. SITE WORK

If the services of the Seller required at the premises of the Customer or at their request at the premises of any other Seller or person, then the Customer undertakes to provide at its cost:

- a) Proper protection of all tools and equipment
- b) Free and safe access to the site, where works will be conducted.
- c) All facilities and services to enable the required works to take place.

11. SPARE PARTS AND ACCESSORIES

Customer shall keep in stock an adequate supply of Spare Parts and Accessories for the servicing of Products. No Spare Parts or Accessories not manufactured by Seller shall be used in connection with the Product unless they have been approved in writing by the Seller.

12. CONFIDENTIAL INFORMATION

Written Technical data, drawings, plans and engineering in technical instructions pertaining to the Products are recognized by Customer to be secret and confidential and to be the property of Seller. Those items shall at all times and for all purposes be held by Customer in a confidential capacity and shall not, without the prior written consent of Seller, (i) be disclosed by Customer to any person, firm or corporation, excepting those salaried employees of Customer who are required to utilize such items in connection with the sale, inspection, repair or servicing of Products during the term of the distributorship created by this Agreement or any extension thereof, or (ii) be disclosed to any person, firm or corporation, or copied or used by Customer, its employees or agents at any time following the expiration or termination of the distributorship created by this Agreement or any extension thereof, except where such use is necessary in order to maintain or service Products still covered by the warranty provisions. At the time of expiration or termination, Seller may require as a condition to any disclosure by Customer pursuant to this Section that any salaried employee to whom disclosure is to be made sign a secrecy agreement, enforceable by Seller, containing terms satisfactory to Seller.

13. PACKING

Seller shall, at its expense, pack all Products in accordance with Seller's standard packing procedure, which shall be suitable to permit shipment of the Products to the Territory; provided, however, that if Customer requests a modification of those procedures, Seller shall make the requested modification and Customer shall bear any reasonable expenses incurred by Seller in complying with such modified procedures which are in excess of the expenses which Seller would have incurred in following its standard procedures.

14. INSPECTION AND ACCEPTANCE

Promptly upon the receipt of a shipment of Products, Customer shall examine the shipment to determine whether any item or items included in the shipment are in short supply, defective or damaged. Within 14 days of receipt of the shipment, Customer shall notify Seller in writing of any shortages, defects or damage which Customer claims existed at the time of delivery. Within 14 days after the receipt of such notice, Seller will investigate the claim of shortages, defects or damage, inform Customer of its findings, and deliver to Customers Products to replace any which Seller determines, in its sole discretion, were in short supply, defective or damaged at the time of delivery.

15. FORCE MAJUERE

Seller will not be liable for delays in delivery or for failure to perform its obligation due to causes beyond reasonable control, including, but not limited to, product allocations, material shortages, labour disputes, transport delays, unforeseen circumstances, acts of god, acts or omissions of other parties, acts or omissions of civil or military authorities, Government priorities, fire, strikes, floods severe weather conditions, computer interruptions, terrorism and events related to such acts, epidemics, quarantine restrictions, riots or war. Seller time of delivery or performance will be extended by the period of such delay or Seller may, at its sole option, cancel any order or remaining part thereof without liability by giving notice to Customer.

16. ENTIRE AGREEMENT

This Agreement contains the entire understanding of the parties and there are no commitments, agreements, or understandings between the parties other than those expressly set forth herein. This agreement shall not be altered, waived, modified, or amended except in writing signed by the parties hereto and notarized.

17. ARBITRATION

Any controversy or claim arising out of or relating to this contract or the breach thereof shall be settled by arbitration to be held in Melbourne, Victoria, in accordance with the law in this jurisdiction, and judgment upon the award rendered by the arbitrators may be entered in any Court having jurisdiction thereof.

18. SECRECY

Customer agrees not to disclose or use, except as required in Customer's duties, at any time, any information disclosed to or acquired by Customer during the term of this contract. Customer agrees that all confidential information shall be deemed to be and shall be treated as a sole and exclusive property of the Seller.