

Quorum Systems –

**Terms and Conditions of
Sale**

January 2018



1. Supply.

Quorum Systems (ABN 51 105 823 238) agrees to supply goods ("Products") and/or services ("Services") to you ("the Customer") subject to these standard terms and conditions ("Terms").

2. Purchase Orders.

Purchase orders for Products or Services will constitute an offer by the Customer and may only be accepted by Quorum Systems in writing. Any amendments to purchase orders for Products or Services must be approved by Quorum Systems in writing to be effective. Only these Terms (not other terms and conditions which may be attached to or incorporated in a purchase order) form part of the agreement between the parties. Acceptance of a purchase order will not be acceptance of any such terms or conditions.

3. Payment.

Payment terms are strictly 14 days from the date of invoice. Products will be invoiced on delivery. Services will be invoiced at the end of each month and on completion or as otherwise prescribed in the documents describing the Services.

4. Interest.

Any amount not paid on the due date for payment will incur interest from that date until payment is made in full. Interest will be calculated daily at the rate of 15% per annum on the total outstanding balance. The Customer acknowledges and agrees that this interest rate is to cover for the actual cost and loss that would be suffered by Quorum Systems in cases of delay in payment.

5. Warranty.

Quorum Systems makes no warranty in relation to the Products or Services other than as contained in these Terms or as prescribed by a law which cannot be excluded by contract or in the case of Products, as provided by the Products' respective manufacturers as made known to the Customer in the documents supplied by Quorum Systems or the manufacturer or as otherwise published or made known to the Customer. Defects in Services reported to Quorum Systems within 14 days of delivery of the Service will be rectified by Quorum Systems at no charge to the customer. Quorum Systems shall not be liable for any warranty services claimed for defects or deficiencies in Products or Services which are caused by:

- (a) external causes including natural disaster, fire, accident, vandalism, water, lightning, power surge or spike;
- (b) Fault of the Customer (including but not limited to negligence and misuse);
- (c) the use of a Product for other than its intended purpose;
- (d) the use with or connection of a Product to items not approved by Quorum Systems;
- (e) the performance of maintenance or attempted repair by persons other than Quorum Systems or as authorised by Quorum Systems;
- (f) changes made to the deliverables created by performance of the Services or to the operating environment;
- (g) the relocation of Products by the Customer; or
- (h) any configuration or reconfiguration by the Customer of the Products or other equipment with which the Products interface.

6. Delivery.

Quorum Systems will use its reasonable endeavours to deliver Products or Services to the Customer by the date agreed but will not be liable for any delays in delivery caused by matters beyond its control. Freight charges incurred by Quorum Systems in delivering Products to the Customer will be invoiced to the Customer.

7. Acceptance

Unless the Customer gives Quorum Systems a written notice specifying that a particular aspect of a delivered Products and/or Services is not in accordance with these Terms or any specifications that were agreed to between the parties previously in writing, within 7 days from the date of delivery of such Products and/or Services, the Customer shall be deemed to have accepted that delivered Products and/or Services. Alternatively, where the Customer puts delivered Products and/or Services to commercial use, it shall be deemed to have accepted those delivered Products and/or Services on the first day of such use, whether or not a notice of the kind contemplated in this clause is given to Quorum Systems as required.

8. Returns.

Products returned will only be credited to the Customer's account if the return is authorised by Quorum Systems in writing and the Products are in the same condition as delivered by Quorum Systems and only if received by Quorum Systems within 14 days from the date of delivery. Quorum Systems reserves the right to charge the Customer for any costs or losses incurred by Quorum Systems if Products which are not faulty are returned or returned without authorisation, returned later than 14 days from the date delivery or in a condition different to the condition the Products were in when the Products were delivered by Quorum Systems. Quorum Systems will use its best endeavours to minimise such costs and losses.

9. Risk and Insurance.

Risk of loss, theft, damage, deterioration or destruction of Products passes to the Customer upon the earlier of:

- (a) delivery to the Customer;
- (b) the taking of possession by the Customer; or
- (c) the delivery to any carrier contracted to the Customer for delivery to the Customer.

10. Title.

Until the Products have been paid for in full the Customer will be a bailee of the Products and the Products shall remain the property of Quorum Systems. If the Customer fails to pay any moneys to Quorum Systems when due, Quorum Systems may immediately without notice or demand enter upon the Customer's premises and take possession of the Products. This right is without prejudice to any other rights that Quorum Systems may have.

11. Confidentiality.

Quorum Systems and the Customer agree that they will keep at all times as strictly confidential any confidential information that is disclosed or provided by one party to the other. In this clause, "confidential information" means information in any form but does not include information that is already in the public domain at the time that it is disclosed or becomes part of the public domain excluding any information that became public knowledge as a result of an unauthorised disclosure by Quorum Systems or the Customer.

12. Intellectual Property.

The Customer acknowledges that, unless otherwise agreed in writing, all intellectual property rights attaching to the Products or arising out of the provision of Services are and will remain the property of Quorum Systems (or its supplier, where such rights are owned by that supplier). Software will be licensed to the Customer on the terms of the relevant licence agreement provided with the Product or as otherwise agreed between Quorum Systems and the Customer in writing. Any rights to be conferred on the Customer will only commence on payment of all charges payable in connection with those rights.

13. Termination.

13.1 Where the Customer:

- (a) defaults in any payment or breaches any of these Terms;
- (b) becomes unable to pay its debts as and when they fall due; or
- (c) commits an act of bankruptcy or, being a company, enters into liquidation or provisional liquidation whether compulsory or voluntary or compounds with its creditors generally or has a receiver or receiver manager or administrator appointed over all or part of its assets or passes a resolution for winding-up or a petition is presented for its winding-up,

Quorum Systems may without prejudice to any of its rights or remedies under these Terms or otherwise by notice to the Customer:

- (a) suspend further supply and require payment in advance for future supply;
- (b) recover possession of any Product for which payment has not been made in accordance with clause 10;
- (c) terminate all or any purchase orders for Products or Services which have been accepted by Quorum Systems;
- (d) claim immediate payment of all moneys due by the Customer in respect of all Products and/or Services which will then be immediately due and payable notwithstanding the due date or dates for payment or any terms agreed by Quorum Systems; and/or
- (e) continue to enforce its rights and recover from the Customer such payments and any other amounts owing as and when they fall due.

14. No Representations.

The Customer acknowledges that Quorum Systems has not made any warranty or representation, express or implied, in relation to the Products or the Services, including whether they are suitable for a particular purpose (whether such purpose was made known to Quorum Systems or not), unless provided in writing.

15. No Implied Terms.

To the fullest extent permitted by law, the parties agree to exclude any terms which would otherwise be implied into these Terms by any statute. The liability of Quorum Systems for a breach of a condition or warranty implied into these Terms by the *Competition and Consumer Act 2010* (Cth) is limited:

- (a) if the breach relates to goods, to the replacement of the goods or the supply of equivalent goods, or the repair of the goods, or the payment of the cost of replacing the goods or of acquiring equivalent goods or the payment of the cost of having the goods repaired; or
- (b) if the breach relates to services, the supplying of the services again or the payment of the cost of having the services supplied again.

16. Limitation of Liability.

16.1 Quorum Systems will not be liable to the Customer for any indirect or consequential damages including loss of profits, revenue, data or use arising out of or in relation to the supply of Products and/or Services, even if Quorum Systems knew or should have known of the possibility of such loss or damage and whether damages are claimed in contract, tort (including negligence) or statute.

16.2 Except in relation to liability for personal injury (including sickness and death) Quorum Systems' liability to the Customer in respect of any loss or damage (including consequential or indirect loss or damage) which may be suffered or incurred or which may arise directly or indirectly in respect of the supply of Products and/or Services pursuant to these Terms or in respect of a failure or omission on the part of Quorum Systems to comply with its obligations under these Terms, shall be, in aggregate, limited to an amount equal to the amount paid by the Customer to Quorum Systems under these Terms.

17. Variation.

Any variation to these Terms must be agreed in writing. Variations to any of the Services agreed to be supplied will be charged by Quorum Systems at its then current rates for those additional services, unless otherwise agreed in writing

18. Third Party Payments

The Customer acknowledges and agrees that Quorum System may pay a fee or commission, or confer a benefit, to third parties (whether as a lump sum or on a continuing basis) in respect of the referral or introduction of the Customer to Quorum System in relation to the provision of Services or Products.

19. General.

19.1 All notices must be in writing and sent by mail, hand delivery or transmitted by facsimile to the address or facsimile number of the receiving party and shall be deemed delivered, in the case of:

- (a) hand delivery, on delivery;
- (b) posting, three days after dispatch; and
- (c) facsimile, on completion of complete and legible transmission.

19.2 No leniency, indulgence or extension of time granted by Quorum Systems to the Customer will prejudice any of Quorum Systems' rights in any way or constitute a waiver of any of Quorum Systems' rights.

19.3 If any of the clauses in these Terms are for any reason declared to be or become unenforceable, invalid or illegal, the remaining Terms will remain in full force and effect.

19.4 These Terms are governed by the laws of New South Wales, Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.

20. Taxes and GST.

The amount payable to Quorum Systems ("the Price") is exclusive of existing taxes, duties and government charges imposed or levied in Australia in connection with the supply of the Products and Services. The Customer shall be liable for any new or varied taxes, duties or charges imposed subsequent to Quorum Systems' quotation or proposal or to this agreement in respect of the supply of the Products and Services. Quorum Systems will issue a valid tax invoice where GST is to be recovered.

21. Entire Agreement.

These Terms constitute the entire agreement between the parties in relation to the supply and purchase of the Products and/or Services. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by these Terms and have no further effect.

22. Expiration.

All pre-paid agreements (excluding Managed Service Agreements) will expire 12 months from invoice date. Any unused funds will be forfeited and the Customer shall have no right of recourse or refund.



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