

Terms & Conditions

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Terms & Conditions

All products and services provided by OnSite I.T Ltd, its staff or nominated representative (“we” or “us”) are supplied to the client (“you”) subject to the following terms and conditions:

1. Definitions

Business hours mean 8:30am to 5pm Monday to Friday. Any Services performed by us on a Saturday will be by appointment only (excluding public holidays).

Services means services performed by us at your request (verbal or written), including the provision of Products and Software.

Site means the location specified by you for the Services.

Software includes all relevant documentation, manuals, printed and written matter;

Products mean computer hardware, peripherals, accessories and associated software.

Terms means these terms and conditions.

2. Services

2.1 We will perform the Services only subject to these Terms. If there is any dispute between any of these Terms and any provision in any form used by you to order or request services, these Terms shall prevail.

2.2 On receipt of a verbal or written order for Services from you, and acceptance by us, a contract for the provision of Services shall be deemed to have been agreed incorporating these Terms.

3. Access

You will ensure that we have access at reasonable times to your equipment for the purpose of providing the Services. We may need to remove Data from site and perform Services in relation to that Data at our own work location. In any case all due care will be exercised but we are not responsible for breach of security or loss of that Data for any reason.

4. Confidentiality

Neither party shall disclose the other’s confidential information to a third party. The operation of this clause shall survive during and after the performance of the Services.

5. Risk

5.1 You shall be responsible for ensuring that the licensing requirement for use of all software operated by you is valid.

- 5.2 You will ensure that adequate backup procedures are in place and are actioned regularly and correctly.
- 5.3 We will perform the Services with due care and diligence. However, we will not be liable for indirect or consequential damage or for any loss of business, property, profit or data, however caused, which may be suffered or incurred or which may arise directly or indirectly in respect of the Products or Services or the failure or omission on our part to comply with our obligations under these Terms, even if we have been advised of the possibility of such damages or loss, and whether such claim is made in contract, negligence or under any other legal claim.
- 5.4 Our total liability for damages under this agreement whether in contract, negligence or under any other claim shall be limited at our option to either of the following, as may be appropriate:
- (a) supply and/or performance of the Services again
 - (b) refund of any payments made by you to us in relation to the cause of action
- 5.5 Any claim for damages must be notified to us within 2 months of the cause of action arising.
- 5.6 Neither party will be liable for any delay or failure to perform its obligations under this agreement if such failure or delay is due to an event or events over which that party could not reasonably have exercised control.
- 6. Delivery**
- 6.1 You will be responsible for insurance and risk in the Products from the time they are received by a carrier for delivery to you or, where you have assumed responsibility for carriage, collected by you or your agent.
- 6.2 You agree to pay all delivery costs.
- 6.3 All claims for shortage or damage during delivery must be made to the carrier within 7 days of the date of delivery. Where goods appear to be damaged or missing you must contact the carrier and us immediately.
- 6.4 We will make every effort to ensure delivery of Products, or performance of Services, is on time but will not be liable for any loss or damage arising in any way from any delay in delivery or performance. Delay in delivery or performance shall not entitle you to cancel any order.
- 7. Warranties and Exclusions**
- 7.1 You represent to us that the Products and Services are being acquired for a business transaction for the purposes of section 43 of the

Consumer Guarantees Act 1993 and that Act shall not apply to any such contract or the provision of Services under it.

- 7.2 You acknowledge that you have not relied on any representation made by us which is not expressly recorded in these Terms.
- 7.3 Products are subject to the manufacturers' warranties only and we will pass on the benefit of those warranties to you if we are able. We make no warranties or representations concerning any Products or Software supplied to you and will not be liable for any failure of Products or Software unless such failure has been caused by us, in which case the limitations in clauses 5.3 – 5.5 inclusive will apply.
- 7.4 Where Products are subject to a return to base warranty, you are responsible for returning them to us or the manufacturer (as provided by the warranty) and you may be responsible for additional costs including (but not limited to) freight.

8. Payment

- 8.1 You shall be liable to pay for all Products and Services provided by us, as follows:
 - (a) Products will be charged for, and payable on, delivery;
 - (b) Invoices for Services are due for payment within 14 days. We may from time to time render interim accounts for services of an on-going nature.
- 8.2 If payment is not made in full by the due date, we may:
 - (a) charge you interest on the unpaid overdue balance at the rate of 5% per annum above the current commercial overdraft rate charged by our bankers, compounding monthly on the unpaid balance owing on the first day of each month until payment in full is received by the Company, plus any debt recovery charges incurred and/or
 - (b) suspend performance of further Services or supply until the account is paid.
- 8.3 Our standard charge-out rate for Services requiring on Site attendance is \$130.00 per hour plus GST, with a minimum charge of one hour.
- 8.4 We will provide telephone support free of charge where single or multiple calls do not exceed ten minutes; otherwise our standard charge-out rate will apply based on the duration of the call or calls.
- 8.5 We will also charge for:

- (a) reasonable expenses incurred in providing on Site services together with a charge on account of the time required by us to travel to the Site; and
 - (b) travel charges not exceeding \$65.00 per visit where the Site is located within the radius of Warkworth/Bombay; outside that area our standard charge-out rate will apply.
- 8.6 All fees and charges appearing in these Terms or quoted by us are exclusive of GST.
- 8.7 If there is any dispute over fees or charges invoiced by us, you shall nevertheless pay the fees and charges in full as required by these Terms. If on resolution of any dispute any part of those fees or charges is refundable by us, we shall promptly refund such part.

9. Property and Ownership

- 9.1 Property and ownership in Products supplied by us will remain with us until you have paid for them in full. Until payment has been received, you shall keep the Products separate from other products you may have.
- 9.2 Without prejudice to any other of our rights, you authorise us or our agent to enter your premises to remove any Products which are our property, and you agree to indemnify us against all costs and claims in respect of its exercise or rights under this clause. We shall be entitled to do this even if you have installed Software not supplied by us on the Products.

10. Returns

You acknowledge and agree that returns shall only be accepted by us in accordance with our returns policy as notified to you from time to time, and that you may receive a credit for goods returned only with our written consent. All goods returned are subject to a minimum 20% restocking fee.

11. Variation

We reserve the right to modify and vary these Terms at any time.

12. Non-waiver

If we fail to enforce any terms or to exercise any of our rights under these Terms at any time, we have not waived those rights.

13. Severability

If any provision of these terms and conditions is held to be invalid or unenforceable for any reason, the remaining provisions shall remain in full force and effect and the parties shall adjust their respective rights and obligations in accordance with the spirit and intent of the parties as shown by these terms and conditions.

14. Governing Law

These terms and conditions are governed by the laws of New Zealand and any dispute under them shall be subject to the jurisdiction of the Courts of New Zealand.