

TERMS AND CONDITIONS OF SALE OF



INTERPRETATION

In these terms and conditions unless the context otherwise requires:

“the Company” means Synergy Electronics Pty Ltd and or any of its subsidiary or related companies.

“the Buyer” means a person, a business, a company or a party to any contractual arrangement with the Company, subject to these terms and conditions.

GENERAL

These terms and conditions are deemed to be incorporated into all sales contracts (express or implied) for the supply of goods and services to the Buyer and supersede all terms and conditions previously issued by the Company. No sales contract for the supply of goods or provision of services shall exist between the Company and the Buyer except upon these terms and conditions unless their exclusion or modification is agreed to in writing by the Company. Any order placed by a Buyer is deemed to be an order incorporating these terms and conditions notwithstanding any inconsistencies in the Buyer's order.

TERMS OF PAYMENT

**** The terms of payment are 30 days from end of month

The Company reserves the right to set a minimum invoice value from time to time at its discretion and reserves the right to withhold at any time supply to the Buyer of further goods or the provision of services in the event the Buyer fails to comply with the Company's terms of payment or for any other reason.

PRICES

Unless otherwise agreed by the Company in writing pursuant to quotation the price for goods supplied and services provided shall be the Company's current price list for such goods or services as at the time of delivery of goods or provision of services. Any quotations given by the Company are subject to written confirmation. All prices and quotations are given ex works the Company and are exclusive of any tax, impost, duty or other levies. Unless otherwise agreed by the Company in writing the costs of freight of goods shall in all circumstances remain the exclusive responsibility of the Buyer

GST COMPLIANCE

Synergy Electronics Pty Ltd is registered for GST and holds ABN 28 107 160 887.

DELIVERY

Dates and times quoted for delivery and/or installation of goods or the provision of services are estimates only and the Company shall not be liable for any loss or damage howsoever arising as a result or consequence of any failure to deliver or install or for delay in delivery or installation or the provision of services arising from any circumstances of whatsoever nature which are outside the Company's control including but without limiting the generality of the foregoing, fire, flood, explosion, strike, lockout or other industrial act or dispute or the breakdown of or accident to plant unavailability or shortage of raw material labour power supplies or transport facilities or act of God or any order or direction or any local State or Federal Government or governmental authority or instrumentality. The Buyer shall not be relieved of any obligation to accept or pay for goods or services by reason of any delay in delivery dispatch or performance.

CANCELLATION

The Company will not accept the cancellation or alteration of any indent orders or orders to be undertaken by the Company pursuant to the Buyer's own specifications or requirements should production have already commenced.

RETURN OF GOODS

Subject to the prior written approval of the Company pursuant to a Return of Materials Authorization the Buyer may return any goods provided that such goods are returned within thirty days from the date of delivery and the goods are in the same condition as when originally delivered to the Buyer. The Company will not accept the return of any indent order or orders undertaken by the Company pursuant to the Buyer's own specifications or instructions.

PACKAGING

All prices quoted include standard packaging. Any special packaging shall be charged to the Buyer.

QUANTITIES

The Company reserves the right to deliver goods to a quantity or percentage more or less than the exact quantity specified. Such variations in quantities shall not exceed five percent (5%) for standard products or ten percent (10%) for indent orders. Without in any way derogating from the above the Company shall not be liable in any way for failure to deliver the exact number of goods invoiced unless a written claim for any short delivery is received by the Company within seven (7) days from the date of initial delivery.

DEFAULT

If the Buyer makes default in any payment, commits any act of bankruptcy or enters into involuntary liquidation or any scheme of arrangement with its creditors the Company may at its option withhold further deliveries or cancel any sales contract for the supply of goods or provision of services without prejudice to its rights thereunder.

IMPLIED TERMS

All warranties and conditions expressed or implied by statute common law equity trade custom or usage or otherwise howsoever are to the extent permitted by law expressly excluded from the sales contract. The Buyer acknowledges that neither the Company nor any person purporting to act on its behalf has made any representation or given any promise or undertaking which is not expressly set out in the sales contract whether as to the fitness of the goods for any particular purpose or any other matter. The Buyer acknowledges that without relying upon the skill or judgment of the Company or any person purporting to act on its behalf it has determined that goods conforming to the contract description will be fit for its purposes. Any description of the goods used in the sales contract is for identification only and shall not constitute a contract of sale by description. The provisions of this clause shall not apply insofar as their application is prevented by the Trade Practices Act 1974 as amended or any other State and Territory laws.

FORCE MAJEURE

Without prejudice to any other provisions hereof, the Company shall not be liable for any delay in performance or failure to perform any of its obligations due to force majeure or any other cause beyond the Company's control.

LIEN

In addition to any lien to which the Company may by statute or otherwise be entitled, the Company shall, in the event of the Buyer failing to pay any outstanding account by the Buyer to the Company or the Buyer entering into any scheme of arrangement the purpose of reconstruction), be entitled to a general lien on all property or goods belonging to the Buyer in the Company's possession (although such goods or some of them have been paid for) for the unpaid price of any other goods sold and delivered to the Buyer under this or any other contract.

WAIVER

Failure by the Company to insist upon strict performance of any term or condition herein shall not be deemed a waiver thereof or of any rights the Company may have, and shall not be deemed a waiver of any subsequent breach of any term or condition.

LICENCES AND PERMITS

All goods are sold and services performed by the Company on the understanding that all licences and permits under all relevant statutes, ordinances, rules and regulations have been obtained by the Buyer, the Buyer will ensure that the installation and use of the goods and the performance of any services by the Company and the Buyer meets all statutory requirements.

PATENTS

The Buyer warrants that any designs, specifications or instructions furnished to the Company shall not be such as will cause the Company to infringe any patent, industrial design, copyright or trademark in the execution of the Buyers order. The Buyer hereby indemnifies and forever holds the Company harmless against any infringement or unauthorized use of any such patent, industrial design, copyright or trademark. The sale and purchase of goods shall not confer on the Buyer any licence or rights under any patent industrial design, copyright or trademark the property of the Company.

PERFORMANCE

Any figures or estimates given for performance of goods are based upon the Company's experience and are such as the Company would expect to obtain on test the Company will only accept liability for failure to comply with the figures or estimates given when such figures or estimates are guaranteed in writing within specified margins.

WARRANTIES, GUARANTEES AND CONDITIONS

This clause shall apply where the Customer is not a consumer as defined in the Trade Practices Act(Australia) if applicable.

All representation or terms (including any condition or warranty expressed or implied by law, statute or otherwise) not expressly included in the Trading Terms are hereby expressly excluded.

If the Company shall be under any liability whatsoever to the Customer then whether such liability be in contract, tort or otherwise and notwithstanding any relief or remedy to which the Customer may be entitled to under the Trade Practices Act(Australia) if applicable, any other applicable legislation, or at law or in equity, such liability shall be limited to the price at which the Goods are supplied to the Customer.

Under no circumstances will the Company be liable for the indirect or consequential loss of any kind whatsoever.

No action or claim may be brought against the Company unless notice of such claim is brought within 30 days of dispatch of the Goods to the Customer.

LIMITATION OF LIABILITY

No liability whatsoever will be accepted by the Company for any direct or indirect loss or damage (including loss of forecasted or actual revenue or profits, loss of livelihood or goodwill or unanticipated incurring of debt) relating to delivery of Goods, account suspension or closure or any other act or omission on the part of the Company or any of its servants, agents or contractors. Where liability is accepted, it is limited to the payment of the cost of having the original product re-supplied.

SUB-CONTRACTING

The Company reserves the right to sub-contract, manufacture and/or supply on any part of the goods quoted or on any materials or services to be supplied.

AIRCRAFT USE

It is a condition of the sales contract that the Buyer shall not use the goods for the installation in or in association with aircraft. In the event the goods are so incorrectly used, the Company shall be exempt from all liability whatsoever and the Buyer hereby indemnifies and forever holds the Company harmless in respect of any claims, demands, suits or proceedings whatsoever resulting from such misuse of the goods.

UNITED STATES OF AMERICA EXPORT ADMINISTRATION REGULATIONS

The Buyer acknowledges that some United States of America manufacturers impose restrictions on ultimate destination of their products in compliance with the United States Export Administration regulations. The Buyer agrees to comply with such regulations and hereby agrees to forever hold harmless and indemnify the Company in respect of any damage or loss howsoever arising as a result of the Buyers breach of same.

GOVERNING LAW

These terms and conditions of sale including the sales contract evidenced thereby shall in all respects be governed by and construed in accordance with the laws of the State of New South Wales Australia and the Company and the Buyer hereby submit to the exclusive jurisdiction of the courts of the State of New South Wales, Australia and none other.