



Standard Terms and Conditions

For the ease of reading, general headings appear **bold** and referenced or defined words are *Italic* formatted (as a guide only).

Find following the *General Definitions* and meanings as applicable to these terms and conditions. Regardless of the individual formatting of any text and or character, in no way will the final formatting of these make null or void or to mean otherwise than that which is intended by *Sir Technology* and the intended meaning shall always take precedence.

General Definitions

These definitions are purposely not given as complete verbatim definitions, neither technically nor legally, as such may be defined differently by others. Regardless of any alternate meaning by others, they represent the meaning associated with these Standard Terms and Conditions and which apply to dealings with *Sir Technology* and hence are to have the meaning and application as defined and intended by *Sir Technology*.

Sir Technology	Sir Technology Pty Ltd (ACN 608 414 053)
Client / Customer	Any individual, business or company to which <i>Sir Technology</i> discusses, quotes, prices, gives information and or provisions <i>Goods</i> or <i>Services</i> to
Supplier	Any individual, business or company to which <i>Sir Technology</i> has discussion with, obtains quotes, prices, information and or <i>Goods</i> or <i>Services</i> from
Third-party	Any individual, business or company to which <i>Sir Technology</i> does or may have need to deal with while acting for itself and or the <i>Client</i> or as a means of evaluating the usefulness of <i>Goods</i> or <i>Services</i>
End-user	The actual individual, business or company who is the recipient, licensed party and or consumer of supplied <i>Goods</i> , <i>Services</i> , <i>Hardware</i> and or <i>Software</i> and responsible for the use, licensing and operation of such
Goods	The supply of an item, infrastructure, product, license, document and or information
Services	The supply of support labour, subscription item and or <i>Hosted Service</i>
Information	Data captured and or held either in hard-copy or electronic format
Progress Claim	Partial and or incremental claim for the <i>Goods</i> and or <i>Services</i> provided
Hardware	Physical computer equipment and or component parts
Software	Hard and Soft copy media used as a distributable application, installation or update
License	The permitted rights of distribution, installation and or use
System	The combination of <i>Hardware</i> and <i>Software</i> configured for an operating environment and or specific <i>Role(s)</i>
Role(s)	The function or designated purpose in relation to performing an <i>Operation</i>
Operation	A specific responsibility, process, command or task
Host	A physical or virtual <i>System</i> that provides a purposed operating environment
Hosted Service	Leased, subscription based and or licensed functional <i>Software</i> provisioned and licensed on a <i>Host</i> for use by and end-user
Stand-by / Stand-down	Billable time where <i>Sir Technology</i> is requested to provide <i>Goods</i> and or <i>Services</i> but for reasons beyond their control or as a direct result of limited access, are unable to do so
Default	A breach of any <i>Sir Technology</i> agreement, breach of Confidentiality, breach of Exclusivity and or non-payment of any due invoice.
Dispute	Engaging in a disagreement as to the facts and or supply of <i>Goods</i> and or <i>Services</i>



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Acceptance and Validity

These terms and conditions are deemed accepted in full and agreed to, by the intended recipient, from date of receipt by the actual individual, business or company, agent, licensed party and or end consumer, unless otherwise agreed in writing by *Sir Technology*.

Should any term or condition be found to be invalid or unenforceable by law, then on discovery, that specific term or condition shall be deemed to no longer be valid, notwithstanding that any and all remaining terms and conditions will remain applicable and enforceable and are in no way void, unless superseded or revoked, in writing, or as otherwise clarified and or issued by *Sir Technology*.

Ambiguity and Clarity

In the event any definition, term or condition and or meaning is unclear or ambiguous *Sir Technology* reserves the sole right, and will use its best endeavours to determine in writing and or offer clarification as to what that intended and on doing so that intention and subsequent meaning shall apply.

Applicable Law

Unless otherwise specified and agreed in writing by *Sir Technology*, all dealings with *Sir Technology* shall be governed by and in accordance with the laws in force within the State of Western Australia, Australia.

Client Invoicing & Payment Terms

Sir Technology will render the *Client* a tax invoice, in either hard-copy, electronically, or both, following the completion of the individual supply of *Goods* and or *Services*, at which point the tax invoice is deemed accepted and payable from time of receipt and in accordance with the terms noted on the individual tax invoice.

Payment terms are strictly Cash On Delivery (C.O.D) at the point of supply of *Goods* and or *Services*, unless otherwise offered and agreed prior, in writing, by a Director of *Sir Technology*.

Where payment terms are other than C.O.D and the *Client* wishes to *Dispute* a tax invoice, they must do so in writing, to *Sir Technology*, within three (3) business days following receipt of the individual tax invoice. Should the *Client* query or *Dispute* part of an issued tax invoice, the remainder of that invoice is deemed accepted in full and due payable in accordance with the terms noted on the individual tax invoice.

Any invoice(s) more than 7 days overdue may at the sole discretion of *Sir Technology*, be cause for *Default*, and furthermore attract a \$15 (ex. GST) late fee. In addition failure to make payment can directly result in the suspension of the supply of *Goods* and or *Services*, including any *Hosted Services*, until any overdue invoice(s) are paid.

Communications

Any notice, instruction or other communication shall be deemed delivered only when in writing and shall be in a form which can be read, copied and recorded conveniently. Any verbal communication shall not be valid until further clarified and confirmed in writing and where any party fails to do so in a reasonable time, *Sir Technology* shall document their understanding which shall take precedence. Due to the risk of misinterpretation or misunderstanding as a result of verbal communication, it remains the sole responsibility of others to ensure they purvey and or confirm information correctly and clearly.

Confidentiality

Unless otherwise explicitly agreed prior in writing by *Sir Technology*, at all times *Clients* shall keep secret and confidential and shall not disclose, copy or duplicate, in part or full, to any other party, any information or details of *Sir Technology* nor their offerings, dealings, supply, configuration, and or pricing for *Goods* and or *Services* throughout and after any dealings with *Sir Technology* (save where that information is required by law to be disclosed or otherwise becomes part of the public domain without the *Client* breaching the terms of these confidentiality provisions).

As part of these terms and conditions, the recipient shall take or cause to be taken such reasonable precautions as may be necessary to maintain secrecy and confidentiality and prevent disclosure or distribution of any details or their dealings, in part or full, by its employees, agents, suppliers and subcontractors, in accordance with the above term.

Unless otherwise agreed in writing, *Sir Technology* will endeavour to keep safe and secure *Client* related information to the best of its ability and it is understood and agreed that due to the nature of the industry and information held in relation to the supply of *Goods* and or *Services*, *Sir Technology* will be required to retain some such information for its records, and or disclose such in part or full. *Sir Technology* further reserves the right and the *Client* agrees to such, that at the discretion of *Sir Technology*, it can and will retain and or disclose necessary *Client* information for the purposes of any *Third-party* supplying a quote and or supply of *Goods* and or *Services*, including matters relating to insurances and warranty and or as needed to meet legal, statutory and or *Client* queries.



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Data Centres, Infrastructure & Data

It is declared and made known that Data Centres shall remain separately responsible for managing and maintaining their infrastructure as provisioned to *Sir Technology*. In the case of *Hosted Services*, where individual *Client* data is homed, that data and disaster recovery will always remain the sole responsibility of the *Client*.

It is declared and made known, indefinitely, that there are inherent risks with *Hardware* and *Software* failures and or potential for the loss of functionality and or data homed within Data Centres and as such *Sir Technology* cannot and will not warrant against any such failures or losses. Any monitoring and backups by *Sir Technology* for core *Hardware*, systems and configuration are solely for the purpose of preventative warning and or disaster recovery of the host environments.

Delivery of Goods and or Services

At all times, the default point of delivery for the supply of *Goods* and or *Services* shall be *Sir Technology* premises in Western Australia, Australia, unless otherwise stated in writing by *Sir Technology*. In the case of a *Client*, the supply of *Goods* and or *Services* shall be deemed to exclude delivery, other than to *Sir Technology* premises or alternate nominated address by *Sir Technology*, unless specifically agreed to prior to supply or shipment, in writing, by *Sir Technology*.

Default & Recovery

In the case of the *Client*, any act of *Default* is subject to the following:

- 1) At all times *Sir Technology* shall be indemnified as to any real and or perceived loss and or impact as a result of a *Client*, *Supplier* and or *Third-party* being in or being placed in *Default*.
- 2) At no time does the *Client* have right to determine a due date other than that specified on an individual tax invoice
- 3) At no time does the *Client* have right to withhold payment for *Goods* and or *Services* provided for any reason other than where required by law
- 4) At no time does the *Client* have right to payment set off or deduct from or counterclaim against, for any portion of an issued tax invoice unless otherwise agreed prior, in writing, by *Sir Technology*
- 5) Should recovery or collection activities become necessary, the *Client* accepts and agrees to give *Sir Technology* and or their nominee full co-operation in this matter and unrestricted access to any and all location(s) to carry out such activities and furthermore acknowledges and agrees to pay to *Sir Technology* immediately on written demand all fees incurred by *Sir Technology* relating to such activities and the recovery.

Deposit Payments

Wherever a deposit payment is required, it is understood and accepted that no authorisation, commitment, work and or associated order or instruction is valid without receipt of the deposit payment and as such *Sir Technology* cannot and will not be held liable or responsible for the timely supply of *Goods* and or *Services* until such deposit payment is recorded.

Dispute Resolution

Should circumstance arise where any parties are in *Dispute*, the following shall apply, in order of precedence, as listed below:

- 1) A notice be issued and delivered in writing to the parties involved as to the perceived *Dispute*
- 2) On receipt of any notice an acknowledgement be returned by the recipient within five (5) business days
- 3) All parties involved shall meet within seven (7) business days of receipt of an acknowledgement to discuss the *Dispute* and make best endeavours to come to an amicable resolution; and
 - i) If a resolution is achieved it shall be documented and agreed in writing to take effect and then executed; else
 - ii) In the event a resolution is not met, the parties will agree to engage an independent arbitrator
- 4) If an arbitrator is appointed, all parties involved shall meet within seven (7) business days at a specified location within Perth, Western Australia (being the seat of the arbitration) and furthermore agree to co-operate with the process and make best endeavours to come to a resolution; and
 - i) The outcome of arbitration is to reach a final and binding resolution agreement
 - ii) The arbitrator is to act as chairman and shall record the meeting as a matter of evidence
 - iii) On reaching a resolution it shall be documented and agreed in writing to take effect and then executed; else
 - iv) At the agreement of all parties, further discussion and or arbitration will occur in an effort to reach resolution within a maximum of sixty (60) days from the date of the recipient acknowledgement
- 5) The rules of the arbitration shall be governed by the ACICA Arbitration Rules and the language of the arbitration shall be English.
- 6) In the event that no agreeable resolution can be met, legal proceedings, to be held in the State of Western Australia, Australia shall be the last course of action



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Goods in Custody

Sir Technology will make best efforts to ensure any and all *Goods* in their care or custody be kept safe from exterior physical damage. The owner and *Client* shall make sure any *Goods* in transit, released and or supplied to *Sir Technology* shall be packaged suitably so as it is reasonably safe and protected from potential damage and furthermore the *Client* indemnifies *Sir Technology* from any responsibility and liability for any damage that may occur.

Following the unlikely event that physical or electronic damage occurs, then on discovery by *Sir Technology*, they will as soon as practicably possible inform the owner as to the facts and the extent of the known damage, along with any potential means for recovery and or repair and furthermore seek instruction from the owner as to how to proceed.

Insurance

Sir Technology shall maintain current statutory insurances related to its industry and associated provision of *Goods* and or *Services*. Any additional insurance cover and or extensions requested by any *Third-party* shall be at the sole discretion of *Sir Technology* and furthermore to the cost of that *Third-party*.

Intellectual Property

All and any creations, designs, solutions, ideas, infrastructure, information, management, systems, processes, guides, applications, hardware and software discussed, offered and or resulting from the supply of *Goods* and or *Services*, where not the property of others or commonly available, is deemed and remains the sole intellectual property of *Sir Technology* and as such the end consumer has no rights or claim as to disclosure, distribution, ownership, or trademark unless otherwise agreed and released by *Sir Technology*.

Liability and Indemnity

Whilst *Sir Technology* have *Goods* in their custody or control, it is declared and made known, indefinitely, that there are inherent risks with *Hardware* and *Software* failures and or potential for the loss of functionality and or data as a result of completing works and or the supply of *Goods* and or *Services* and as such *Sir Technology* cannot and will remain indemnified against any such failures or losses.

At all times the owner is responsible for ensuring it maintains suitable backups or copies of programs, licenses, information and data prior to releasing *Goods* to *Sir Technology*, unless explicitly engaging and requesting *Sir Technology* to complete such prior to actioning any works.

Sir Technology shall not be liable in any way, or to any extent for injury to any person or property, nor for the theft, or destruction of any physical and or electronic property and or information in their custody, at any time. *Sir Technology* shall not be responsible for loss of income resulting from any fault or failure of any *Hosted Services*, *Hardware*, *Software* and or *Third-party* damages.

In relation to the provision of *Goods* and *Services*, following *Client* and or *Third-party* requests, the *Client* agrees to indemnify *Sir Technology* on written demand against actual or perceived losses or damages incurred by *Sir Technology* in respect of any *Third-party* damages as at all times it remains the responsibility of the owner.

Clients and any other *Third-party* alike, are to ensure they maintain the necessary insurances for their *Goods*, transit and or *Sir Technology* leased *Equipment*, and furthermore agree to supplying evidence of such and hold free *Sir Technology* from any event where they have not done so or such insurances are not adequate in any way.

The *Client* acknowledges and accepts that, to the extent permitted by law, *Sir Technology* will be under no liability to the *Client* whatsoever, whether in: (a) contract or tort (including, but not limited to negligence); (b) breach of statute; or (c) any other legal or equitable obligation, in respect of any cause of action or claim for loss or damage, arising out of the provision of the *Goods* and or *Services* including, but not limited to: (i) loss of revenue; (ii) loss of profit; (iii) loss of opportunity (including but not limited to business opportunities); (iv) loss of goodwill; (v) damage to reputation; and (vi) damage to hardware and software, in respect of any such cause of action.

Sir Technology expressly excludes any liability in connection with any cause of action, or claim for loss or damage: (a) caused directly or indirectly by any act or omission of the *Client* or any third party, in the provision of the *Goods* and or *Services*; (b) for consequential loss or damage caused by or arising out of the provision of the *Goods* and or *Services* or (c) for loss or damage due to negligence or improper use or operation or (without limiting the course of or in connection with the provision of the *Goods* and or *Services*) occurring in respect of the *Goods* and or *Services*; and (without limiting the generality of the foregoing) the use of the *Services* other than strictly in accordance with *Sir Technology's* written instruction as supplied with the *Goods* and or *Services*.

Sir Technology accepts no responsibility for checking, testing and approving all software, software configuration and related material that *Sir Technology* produces on the *Client's* behalf in the course of or in connection with the provision of the *Goods* and or *Services*.

To the extent that *Sir Technology's* liability is not excluded or is not able to be excluded under these terms and conditions, the total liability *Sir Technology* may incur in connection with any particular breach of these terms and conditions in tort, breach of statute or breach of any other legal or equitable obligation is limited to, in all cases: (a) the supplying of the *Goods* and or *Services* again; or (b) the payment of the cost of having the *Goods* and or *Services* supplied again.

Sir Technology's liability pursuant to any cause of action or claim for loss or damage arising out of the provision of the *Goods* and or *Services* will be reduced proportionately to the extent that: (a) such loss or damage has been caused by the *Client's* failure to comply with its obligations and responsibilities under these terms and conditions; and (b) the negligence of the *Client* has contributed to such loss or damage, regardless of whether a claim is made by the other party for breach of contract or for negligence.

The above provisions will survive termination or expiry of these terms and conditions.



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Lifecycle

These Standard Terms and Conditions remain effective and in place indefinitely unless otherwise superseded or revoked, in writing, or otherwise replaced, as published by *Sir Technology*.

Location of Work & Right of Access

Wherever *Sir Technology* is engaged for the supply of *Goods* and or *Services*, the provision of such is subject to being given free and unlimited access to all related logins, services and equipment at all and any location where *Sir Technology* are requested to act. If *Sir Technology* are unable to complete the provision of *Goods* and or *Services* as a direct result of limited or no access, *Stand-by* shall apply.

Maintenance and Updates

Due to the nature of the industry, maintenance and or updates developed, sourced, issued, installed, submitted, suggested, recommended, released and or deployed by others and then used by *Sir Technology*, are accepted at the sole risk of the end-user and not deemed to be in the control of nor the responsibility of *Sir Technology*, whether perceived otherwise or not.

Where *Sir Technology* is requested to acquire and or complete maintenance and or update tasks they do so with the understanding and agreement that unless explicitly disclosed and or requested prior to them being actioned, such tasks exclude pre-testing, verification and or reporting, and are completed at the recipients request and without warranty or liability.

Normal Business Hours & Support Response

Sir Technology deem *Normal Business Hours* to be within the State of Western Australia, Australia from Monday to Friday during the hours of 8:30am and 4:30pm (WST), unless otherwise stated in writing by *Sir Technology*. Response times to *Client* issues and or requests is always subject to staff availability and other priority and or scheduled works at that time.

Order of Precedence

Irrespective of time and the order of receipt and or reply, unless otherwise stated, the order of precedence of any documents and associated Terms and Conditions shall be as follows:

- 1) Third-party Warranty Terms & Conditions
- 2) Sir Technology Standard Terms and Conditions
- 3) Sir Technology Operating Lease Agreement
- 4) Sir Technology Support Level Agreement
- 5) Sir Technology Special Terms and Conditions
- 6) Other Specification(s) agreed in writing by Sir Technology
- 7) Third-party Terms and Conditions

Price

In the case of the *Client*, unless otherwise stated all work requested or completed is subject to Sir Technology Corporate IT Service Overview and associated rates (current at that time the work is completed) and furthermore any other price stated by *Sir Technology* excludes GST.

Title of Ownership

At all times the title and ownership of any *Goods* supplied by *Sir Technology*, remain that of *Sir Technology* until any and all outstanding payments are made and received by *Sir Technology*.

Warranty

The anticipated warranty period for all new *Goods* will be 12 months from the date of purchase, and shall be limited to that provided by the original vendor and or manufacturer, and those provided under Australian Consumer Law. In the case of an additional or separate warranty being applicable, the warranty shall be subject to those terms and conditions. No other warranties are given by *Sir Technology*.