

# PRODUCT SALES - TERMS AND CONDITIONS

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## 1. Definitions

In this Agreement the terms have the following meanings:

- a) "Flexi Business Solutions" means "Flexi Business Solutions Pty Ltd. ABN: 17 103 420 113 ACN: 103 420 113". All references to this company are hereinafter referred to as "Flexi Business Solutions".
- b) "The Client" means any person, company, partnership, organisation or body at whose request, Flexi Business Solutions agrees to provide the products and/or services under the terms of the Agreement.
- c) "The Agreement" means the contract between Flexi Business Solutions and the Client to which these terms and conditions will apply.
- d) "Hardware" means the computer equipment to be purchased.
- e) "Software" means the software to be purchased and related materials, updates and enhancements developed by third parties and supplied by Flexi Business Solutions.
- f) "Products" means any Hardware or Software sold or licensed by Flexi Business Solutions

## 2. About This Agreement

These terms and conditions are designed to make Flexi Business Solutions and the Client clear on what is mutually required and expected. These terms and conditions apply to all products and services provided by Flexi Business Solutions for hardware and software sales, delivery and installation.

If the Client is in any doubt as to the meaning of terms and conditions outlined in this document, they are requested to contact Flexi Business Solutions by email on [legal@flexibusiness.com.au](mailto:legal@flexibusiness.com.au), or view the terms and conditions online at [www.flexibusiness.com.au/legals](http://www.flexibusiness.com.au/legals).

Flexi Business Solutions reserves the right to refuse to provide services and/or products at its discretion.

## 3. Amendment

This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.

## 4. Title to the Hardware

Notwithstanding delivery, installation and acceptance, title to the Hardware shall not pass to the Client but shall be retained by Flexi Business Solutions until full payment for the Products has been received by Flexi Business Solutions from the Client.

Until such time as title in the Hardware has passed to the Client, Flexi Business Solutions shall have absolute authority to retake, sell or otherwise deal with or dispose of any or part of the Hardware.

## 5. Hardware Warranty

Unless otherwise specified, Flexi Business Solutions warrants to the Client that the Hardware supplied by Flexi Business Solutions is free from defects of workmanship and materials for the period as specified in the manufacturer's warranty, which commences on installation by Flexi Business Solutions or on delivery of Hardware if not to be installed by Flexi Business Solutions.

If the Customer delays installation by Flexi Business Solutions for more than 14 days from delivery, installation shall be deemed to have occurred 14 days following delivery.

Flexi Business Solutions may, at its discretion, undertake to repair, replace, or return to the manufacturer the Hardware purchased which Flexi Business Solutions has on inspection found to be defective, for the period as specified in the manufacturer's warranty.

In the event of any claim presented under warranty being found on investigation by Flexi Business Solutions either to be outside the scope or duration of this warranty or the fault not being confirmed, then the cost of such investigation and repair shall be borne by the Client

Flexi Business Solutions shall not be liable at any time for damage or defects in the Hardware or parts caused by:

- improper use or installation (if not installed by Flexi Business Solutions); or
- use of the Hardware outside the specifications detailed in the documentation relating to the Hardware; or
- outside the specific application of the Hardware; or
- where Hardware has been repaired or modified by persons not authorised by Flexi Business Solutions or the manufacturer.

## 6. Software Warranty

In the case of third party software, Flexi Business Solutions will use reasonable endeavours at its own expense to procure that the Client will have the benefit of any warranty given by a third party in respect of Software delivered subject to the Client complying with the conditions of such warranties.

## 7. Price

Unless a written quotation has been given the prices for the Products are subject to alteration without notice and the price charged to the Client will be that applicable at the date of Flexi Business Solutions' acceptance of the order. Orders are not binding upon Flexi Business Solutions until accepted by Flexi Business Solutions.

## 8. Delivery and Installation

Dates for delivery of the Products are estimates only and are subject to Flexi Business Solutions' availability schedule. Flexi Business Solutions shall make every reasonable effort to meet any delivery date(s) acknowledged but shall not be liable for failure to meet such date(s).

## 9. Damages, Shortages or Loss in Transit

The Customer shall inspect the Products immediately on delivery and Flexi Business Solutions will accept responsibility for damages, shortage or loss in transit only if:

- Such loss or damage is noted on the delivery document upon receipt, and copies provided to Flexi Business Solutions or is notified in writing to Flexi Business Solutions in cases of outwardly non visible loss or damage to unchecked Products to arrive in either case within 5 working days from receipt of the Products by the Client; and
- In cases of suspected damage in transit the added packaging is retained for inspection; and
- The Products are handled by the Client in accordance with Flexi Business Solutions' or the carrier's conditions of carriage or handling stipulations.

Where Flexi Business Solutions accepts responsibility under this clause Flexi Business Solutions shall at its option replace or repair any Products proved to Flexi Business Solutions' satisfaction to have been lost or damaged in transit.

## 10. Payment

Unless otherwise agreed in writing, the Client shall pay for Products at the time of order. Alternatively where the Client is invoiced by Flexi Business Solutions on the date of delivery for the Products, the invoice is payable no later than 14 days from the date of the invoice unless by prior arrangement with Flexi

Business Solutions. Payment by cash is treated as immediate payment. Payment by other means (e.g. cheque) is treated as received when the payment has been processed through the Flexi Business Solutions bank account. If the Client's cheque is returned by the bank as unpaid for any reason, the Client will be liable for a "returned cheque" charge of \$50.

### **11. Non-payment, or late-payment of accounts**

Flexi Business Solutions will contact Clients via email and/or telephone to remind them of payments if they are not received when due. If accounts are not settled or Flexi Business Solutions have not been contacted regarding the delay prior to the due date, Flexi Business Solutions reserves the right;

- To withhold provision of any goods or services that would otherwise be obliged to provide.
- To make administration charges for any overdue accounts.
- To demand full and immediate payment of fees to the end of a maintenance contract, where a maintenance contract applies.
- To make an additional daily charge, for any accounts not settled on time, equivalent to 10% above the current Reserve Bank Interest Rate.
- To take legal proceedings through the courts to recover any unpaid debts, and to recover out-of-pocket expenses incurred through these proceedings.

### **12. Return Policy**

If for any reason the Client is unhappy with any purchase, the Client shall be entitled to return it to Flexi Business Solutions, at the Client's expense, in its original condition within 30 days of the date the relevant item is received by the Client, unopened (with any seals and shrink-wrap intact) and Flexi Business Solutions will issue a full refund for the price paid for the item.

### **13. Specifications**

Flexi Business Solutions reserves the right to change specifications of Products at any time and without notice and to supply Hardware and/or Software that differs from the specifications agreed between Flexi Business Solutions and the Client provided that such substitutions do not materially affect the performance of the Products.

### **14. Liability**

In no event will Flexi Business Solutions be held liable to the Client or any third-party for any damages, including, but not limited to any lost profits, lost savings or other incidental, consequential or special damages arising out of the supply, delivery, installation, support or use of the Hardware or the Software, even if Flexi Business Solutions has been advised of the possibility of such damages.

Where Clients use a third-party product and/or service then their relationship is exclusively with the manufacturer of that product. Though Flexi Business Solutions may source and supply these Products, it is entirely up to the Client to inform themselves both as to benefits and risks and to correct usage.

The Client agrees to absolve & indemnify Flexi Business Solutions of any liability and to assume full responsibility for any violations and legal actions that may arise at any time in the future.

### **15. Notices**

Any notice, direction or other communication given under this Agreement shall be in writing and given by sending it via e-mail or via regular mail. Any e-mail communication shall be deemed to have been validly and effectively given on the date of such communication, if such date is a business day and such delivery was made prior to 4:00 p.m. Australian Eastern Standard Time, and otherwise on the next business day. Any communication sent via regular mail shall be deemed to have

been validly and effectively given 5 business days after the date of mailing, if posted within Australia.

### **16. Privacy and Confidentiality**

To communicate and provide services to the Client, Flexi Business Solutions requires personal information such as the Client's name, address, phone number and e-mail address. Flexi Business Solutions uses this information to source and supply Products and to contact the Client.

This personal information will only be used for the purposes of servicing the Client, and will not be shared or sold to third parties unless required by law, with the exception of subcontractors hired specifically for performing the work.

Flexi Business Solutions attempts to keep all personal information supplied by Clients accurate. Clients can help Flexi Business Solutions to update and maintain the accuracy of any personal information supplied by informing Flexi Business Solutions of any changes to this information.

### **17. Laws**

These conditions and all other express terms of contract shall be governed and construed in accordance with the laws of the state of Queensland and the Federal laws of Australia.

### **18. Severability**

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed written, construed, and enforced as so limited.