

Terms & Conditions

These Conditions shall apply to all contracts for the purchase of Goods and/or Services from Secure Internet Storage Solutions P/L trading as Secure ISS (the "Supplier") to the exclusion of all other terms and conditions including any terms or conditions which the Supplier may purport to apply under any sales offer, standard terms of sale, acknowledgement of order or similar documentation. Secure ISS will not be liable for any orders for Goods and/or Services or amendments thereto other than those issued or confirmed on the Purchase Order and signed by a Client representative.

1. Definitions

- 1.1 "Additional Services" shall mean any goods or services provided by the Supplier which fall outside the scope of works described in the Quotation.
- 1.2 "Client" shall mean the entity named on any form provided by the Supplier to the Client who buys or agrees to buy Goods and/ or Services.
- 1.3 "Contract" means each contract formed between the Supplier and the Client which incorporates the terms of this document.
- 1.4 "CPI" means the Consumer Price Index published from time to time by the Australian Bureau of Statistics
- 1.5 "Default Event" means an event of default under clause 11 of these Terms and Conditions.
- 1.6 "Deliverables" shall mean all Deliverables, Goods, Services and/or Works undertaken by the Supplier (including, but not limited to any advice or recommendations given regarding the Deliverables) and are as described on any Invoice, Quotation, Fees Schedule or any other forms provided by the Supplier to the Client.
- 1.7 "Disbursement" means any amount paid or debt incurred by the Supplier on behalf of the Client during the provision of the Goods and/ or the Services under the Contract.
- 1.8 "Fees Schedule" shall mean the schedule of fees agreed between the Supplier and the Client and specified in or calculated by reference in respect to any Quotation, Estimate, or any other forms provided by the Supplier to the Client.
- 1.9 "Fixed Term Contract" is for a defined period and has a set starting date and a set ending date.
- 1.10 "Goods" shall mean all goods, including Deliverables (including but not limited to any advice or recommendations given regarding the Goods), specified in the Quotation to be provided by the Supplier to the Client pursuant to a Contract.
- 1.11 "GST" shall mean goods and services tax payable under the Goods and Services Tax Act 1999.
- 1.12 "Intellectual Property" means, in respect of any person, all intellectual property and industrial property rights and interests (including common law rights and interests) owned or held by that person, or lawfully used by that person
- 1.13 "Invoice" means any tax invoice from the Supplier to the Client claiming an amount for payment for Goods, Services or Deliverables provided under a Contract between those parties.
- 1.14 "Parties" to the contract means the Client and the Supplier
- 1.15 "Price" shall mean the cost of the Goods, Works and/or Deliverables as determined by the Supplier and any other amounts owing to the Supplier by the Client.
- 1.16 "Quotation" shall mean any quotation provided by the Supplier to the Client which describes goods or services to be provided by the Supplier and specifies a price for those good or services.
- 1.17 "Services" means all services described in the Quotation to be provided by the Supplier to the Client in accordance with the Contract.
- 1.18 "Supplier" shall mean Secure ISS, and/or any related companies of the Supplier, and/or agents, employees, successors or assignees thereof.
- 1.19 "Terms and Conditions" means this document and the terms contained herein.

1.20 "Variations" means any amendment of or change to the Contract agreed by the Client and Supplier

2. Interpretation

2.1 If any provision of this Contract shall be invalid or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced, or impaired.

2.2 This Contract shall be subject to the laws and statutes of Queensland and subject to the jurisdiction of the court geographically closest to the physical address of the Supplier.

2.3 The Supplier may sub-contract any part of this Contract. No sub-contractor has any authority to agree to any variation of this Contract on behalf of the Supplier.

2.4 The Supplier's failure or delay in exercising or enforcing any right it has under this Contract shall not operate as a waiver of the Supplier's rights to exercise or enforce such rights or any other rights in the future.

2.5 Any waiver of these Terms and Conditions by the Supplier must be made in writing.

2.6 The Client may not assign all or any of the Client's rights or obligations under this Contract without the written permission of the Supplier.

2.7 The Supplier shall not be bound by any error or omission made by the Supplier on any invoice, quotation, estimate, or any other document issued by the Supplier.

2.8 The Client shall notify the Supplier of any intention to cease trading and/or of any change in the Client's name and/or contact details by giving at least seven (7) days' notice in writing prior to any such events taking effect.

3. Offer

3.1 The Supplier may offer to enter into a Contract on the Terms and Conditions contained herein with a Client for the work described therein by:

(a) providing the Client with an engagement letter;

(b) providing the Client with a quotation; or

(c) providing the Client with any other documentation containing a description of work to be performed by the Supplier and a price for performing the same.

3.2 Where a Quotation is given for the Price then:

(a) where Goods, Works and/or Deliverables are required in addition to the quotation then the Client agrees to pay the additional Price of such Goods, Works and Deliverables; and

(b) the Supplier reserves the right to amend the quotation in the event of circumstances beyond the Supplier's control.

3.3 Any offer made by the Supplier to the Client shall be deemed to expire 20 business days from provision of the same, unless otherwise agreed between the parties.

4. Acceptance

4.1 The Client may accept an offer made by the Supplier to enter into a Contract by:

(a) Providing instructions, written or verbal, to the Supplier for the supply of Goods, Works and/or Deliverables;

(b) Making payment of any amount requested by the Supplier in the offer;

(c) Accepting Goods, Works and/or Deliverables supplied by the Supplier; or

(d) Accepting the offer in writing.

4.3 These Terms and Conditions along with the Supplier's quotations, estimates, order forms, and invoices, or any other documents issued by the Supplier, together, form the Terms of the Contract and are the full agreement between the parties. To the extent of any inconsistency between the Terms and Conditions and any other document incorporated into the contract by this clause, the Terms and Conditions shall prevail. To the extent of any inconsistency between the Quotation and any other document incorporated into the Contract by this clause (other than the Terms and Conditions), the Quotation shall prevail. For the avoidance of doubt, an

inconsistency between the Quotation and these Terms and Conditions shall be deemed to be an agreement to vary the Terms of the Terms and Conditions where the Terms and Conditions include express wording to provide for the parties to agree to alternative Terms, and any such variations shall apply for that Contract.

4.4 The Client acknowledges that no employees, contractors, agents and/or representatives of the Supplier are authorised to make any representations, statements, conditions and/or agreements without the prior written consent of a Director of the Supplier. The Client expressly agrees that the Supplier will not be bound by any such unauthorised statements.

5. Variation

5.1 The Parties agree that the Supplier may, at its utmost discretion, elect to vary the Terms and Conditions from time to time.

5.2 Any variation of the Supplier's Terms and Conditions shall not affect the terms of any Contract on foot at the time of such variation unless expressly agreed between the Parties. For the avoidance of doubt, the terms and conditions that apply to any Contract shall be the Terms and Conditions as then incorporated into the Contract at the time of formation, unless otherwise agreed by the Parties.

6. Subscription Agreements

6.1 Where the quotation describes the type of the Contract as a "Subscription Agreement" (as opposed to being a "service agreement"), the additional terms of this clause 6 will apply.

6.2 The Supplier may, at its own utmost discretion, elect to review the scope of the Services and the Price as set out in the Quotation, with that right arising on the day that is 3 months after the commencement date and expiring on the day that is 4 months after the commencement day.

6.3 If the Supplier elects to exercise its right to review, it may amend such terms of the Quotation as it deems commercially reasonable in the circumstances, including but not limited to any changes in the Client's or the

Supplier's circumstances since the Quotation was issued, to create a new Quotation ("New Quotation") and must provide a copy of the New Quotation to the Client within five (5) working days of exercising its right to review.

6.4 Within ten business days of receiving the New Quotation, the Client must either accept or reject the New Quotation by notice to the Supplier. For the avoidance of doubt, it will be deemed to be a rejection of the New Quotation if the Client fails to provide notice of their decision to the Supplier within the specified timeframe and that notice will be deemed to have been received on the eleventh day after the day the Client received the New Quotation.

6.5 The parties expressly agree that where the Supplier issues a New Quotation and the Client rejects the quotation, the Supplier may terminate this agreement by written notice to Client at any time within 30 days of receipt of the notice of rejection and such termination shall be on the following terms:

(a) The Contract will terminate 30 days after date of the notice;

(b) The Parties expressly agree that the Supplier's election to terminate under this clause shall not be construed as a breach or a repudiation of the Contract and shall not give rise to any claim for damages in relation to that termination, except to the extent that either party has failed to comply with the terms of this clause 6.

7. Suppliers Obligations

7.1 The Supplier agrees to provide the Goods and/or Services in exchange for the Client agreeing to pay the Price.

7.2 The Supplier warrants:

(a) it has the right to grant the licenses in respect of the Deliverables under this agreement to the Client without violating any rights of any third party;

(b) any Services provided under this agreement shall be performed in a workmanlike manner.

8. Clients Obligations

8.1 The Client agreeing to pay the Price in exchange for the Supplier agreeing to provide the Goods and/or Services.

8.2 The Client acknowledges that:

(a) the Supplier is in the business of Cyber Security and Cloud Hosting and the Supplier shall have the right to provide services to third parties which are the same or similar to the Services

(b) it is responsible for any faults, which occur, in the Client's computer or communication equipment; or do not meet any minimum specifications

(c) incorrect delivery addresses may incur an additional freight fee. It is the Customer's responsibility to advise any changes to current address or contacts and ensure a person is ready to receive the delivery at the location

(d) there must be a person ready to receive any delivery at the location. Once delivered and signed the risk passes to the Customer at the location. If there is no one there to accept a delivery an additional fee may be charged.

9. Additional Services

9.1 Any request for Additional Services from the Client to the Supplier shall constitute a request to vary the Terms of the Contract to vary the scope of work to include those Additional Services in accordance with this clause.

9.2 Any fee for additional services shall be calculated based on the amount of time required for the Supplier to perform the work comprising the Additional Services at the rate specified in the Fee Schedule for that type of work.

10. Payment

10.1 All Fees payable under this agreement for Goods and/ or Services shall be payable in advance, unless otherwise agreed between the parties or where the fees relate to Additional Services. For the avoidance of doubt:

(a) the Supplier's obligations under these Terms and Conditions, including but not limited to their obligations to

provide Goods and/or Services, are conditional upon the Client making payment in advance; and

(b) Where the Supplier has specified a timeframe for doing any action or task, that timeframe is conditional upon payment being received when due, and the Parties agree that where the specified timeframe shall be extended by the amount of time that the payment was due but not made.

10.2 Unless the Supplier otherwise agrees in writing, payment of any Invoice shall be due seven (7) days after an Invoice is issued for the Price.

10.3 Unless the Parties agree otherwise, payment must be made by way of irreversible bank transfer.

10.4 The Supplier may submit a detailed payment claim at intervals of not less than one (1) month for work performed up to the end of each month. The value of Goods, Works and/or Deliverables may include the value of authorised variations.

10.5 All payments by the Client must be made in full.

10.6 Should the Client dispute any invoice of the Supplier's, the Client shall remain liable for payment to the Supplier, of any outstanding invoices not subject to any dispute raised by the Client. Payment for any invoice not related to a dispute, shall remain due, on the date noted on the Supplier's invoices. Nothing in this clause shall be construed as waiving, suspending or otherwise modifying the Client's obligation to pay a validly issued invoice.

10.7 All contracts are subject to an Annual Price Review. The Price (exclusive of GST) will be increased on each anniversary of the term of the agreement to an amount calculated by multiplication of the then current Price by a fraction, the denominator of which is the CPI current one year previously and the numerator of which is the then current CPI.

11. Default

11.1 A Default Event occurs if:

(a) any amounts are unpaid after they fall due;

(b) the Client is unable to pay its debts as they fall due;

(c) the Client ceases or suspends conduct of its business, or threatens to;

(d) The Client's financial circumstances change in a way which, in the reasonable opinion of the Supplier, will affect the Client's ability to comply with its obligations under this Contract;

(e) an administrator, liquidator, provisional liquidator, receiver and/or manager or any other form of insolvency administrator or controller is appointed to the Applicant or over all or part of the Applicant's assets;

(f) the Client goes into bankruptcy, dies, or commits any act of bankruptcy or, if the Client is a partnership, the partnership is dissolved;

(g) execution is levied on any of the Client's assets.

11.2 Without prejudice to any other rights or remedies that the Supplier may have against the Client, where the Default Event relates to a failure to pay any amount owing by the Client, the Client agrees to pay on demand:

(a) all costs (including, but not limited to, collection agency fees, commission, legal fees and any other costs on a solicitor and own client basis) incurred by the Supplier in recovering any amounts payable by the Client to the Supplier;

(b) interest on the amount outstanding at the end of each month in which the Client's account is in arrears at the rate of two percent (2%) per month (compounding) with such a rate after as well as before any judgement; and

(c) a monthly administration fee of twenty-five dollars (\$25) by way of damages payable on the last day of each month in which the Client's account is in default.

11.3 In the event the Client's payment to the Supplier is dishonoured for any reason, the Client shall be liable for any dishonour fees incurred by the Supplier.

12. Breach and Termination

12.1 Either party may terminate any Contract on 90 days' prior written notice to the other party at any time subject to the remainder of this clause.

12.2 If a Default Event occurs:

(a) The Supplier may, at its sole discretion, suspend performance of its obligations under the Contract until such time as the Default Event is rectified or terminate the supply of Goods and/or Services;

(b) all unpaid amounts become immediately due and payable; and

(c) the Supplier may immediately terminate the Contract at any given time before the Default Event is rectified by written notice to the Client.

12.3 All Goods and/ or Services which are pre-paid by the Client are non-refundable

12.4 Where the Client has entered into a fixed term agreement with the Supplier for Goods and/ or Services and cancels the Contract, the Client continues to be liable for payment of the Goods and/ or Services for the remainder of the agreed term.

12.5 The Parties acknowledge that the Supplier's rights under this clause may be subject to restrictions pursuant to clause 415D of the Corporations Act 2001 (Cth).

13. Effect of Termination

13.1 If any Contract is terminated by the Client or the Supplier under clause 12, that Contract will terminate and the following will apply:

(a) any license granted under or pursuant to that Contract or these terms and conditions will end, and the Client will not be authorised to use the Goods and/ or Deliverables after expiry or termination of that Contract;

(b) the Client shall be liable to pay the Supplier for full costs of the Works, Goods and/or Deliverables provided by the Supplier, including any Goods, Works and/or Deliverables ordered and/or purchased, up to the date of termination;

(c) the Client will agree to pay the Supplier for any unpaid fees arising from the Client's use of the Deliverables up to the date of termination;

(d) the Client will agree to return to the Supplier, on the Supplier's demand, any information to which this clause relates to the business of the Supplier or the services or

products provided under these terms and conditions and/or any Contract;

(e) termination of any Contract shall be without prejudice to the rights of any party which have accrued prior to, or which arise in connection with, such termination; and

(f) the provisions of these terms or any Contract intended to apply after termination shall continue to apply.

13.2 The Supplier shall not be liable for any loss or damage whatsoever arising from any election to terminate the Contract

14. Intellectual Property Rights

14.1 All materials provided by the Supplier to the Client, including but not limited to:

(a) any computer software (in object code and source code form), script, programming code, data or information

(b) any trade secrets, know-how, methodologies and processes related to the Supplier's Goods, Works and/or Deliverables shall remain the Supplier's sole and exclusive property

14.2 The Supplier will have no liability to the Client for any claim of infringement based on or related to and relating to the Deliverables, and that the Client has no rights in and/or relating to the Deliverables, other than are expressly provided for in this Contract This clause shall survive the expiry or termination of the Contract.

15. Software Licenses

15.1 The Client acknowledges that any license granted by the Supplier under this clause is granted subject to consent from any third party licensors (if any).

16. Disclaimer and Limitation of Liability

16.1 The Supplier disclaims all warranties and conditions, whether express, implied or statutory, other than those identified expressly in this agreement, including but not limited to warranties of title, non-infringement, merchantability, and fitness for a particular purpose, to the extent that it is able to do so at law.

16.2 The Supplier will not be liable for any loss or damage suffered by the Client as a result of any failure or defect in any services or products provided by third party vendors, developers or consultants referred to the Client by the Supplier unless such third party products or services are provided under written agreement between the Client and the Supplier and then only to the extent expressly provided in those agreements.

16.3 Under no circumstances (including, but not limited to negligence), shall the Supplier, or any of the Supplier's related companies, officers, employees, partners, agents or suppliers, be liable to the Client for:

(a) the Client's reliance on the Deliverables; and

(b) any direct, incidental, special, consequential, indirect or punitive damages (including loss of use, loss of data, loss of profits, loss of anticipated savings, or loss of goodwill) that result from the use of, or the inability to use, and/or relating to the Deliverables.

16.4 If the Supplier is liable to the Client at law for any loss or damage, the Client expressly agrees that the liability of the Supplier, or any of the Supplier's related companies, officers, employees, partners, agents or suppliers (together) to the Client or anyone else using the Goods, Works or Deliverables the Supplier provides to the Client (together) or damages, losses, and causes of action (whether in contract, tort, including negligence, under statute or otherwise) shall not exceed the total cost of providing the Deliverables or \$10,000, whichever is the lesser amount.

17. Disputes

17.1 Any and all disputes arising between the parties under this Contract will be referred to a single arbitrator to be mutually agreed upon by the parties (or failing such agreement as appointed by The Institute of Arbitrators and Mediators Australia [IAMA]). Any determination of such arbitrator shall be final and binding on the parties and not subject to review.

18. Privacy Act 1988

18.1 The Client agrees for the Supplier to obtain from a credit reporting agency a credit report containing

personal credit information about the Client in relation to credit provided by the Supplier.

18.2 The Client agrees that the Supplier may exchange information about the Client with those credit providers either named as trade referees by the Client or named in a credit report issued by a credit reporting agency for the following purposes:

- (a) to assess an application by the Client;
- (b) to notify other credit providers of a default by the Client;
- (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and
- (d) to assess the credit worthiness of the Client.

18.3 The Client consents to the Supplier being given a consumer credit report to collect overdue payment on commercial credit.

18.4 The Client agrees that personal credit information provided may be used and retained by the Supplier for the following purposes, and for other purposes as shall be agreed between the Client and Supplier, or required by law from time to time:

- (a) provision of Goods; and/or
- (b) marketing of Goods by the Supplier, its agents or distributors in relation to the Goods; and/or
- (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to provision of Goods;

and/or

- (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Client; and/or

- (e) enabling the daily operation of the Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Goods.

18.5 The Supplier may give information about the Client to a credit reporting agency for the following purposes:

- (a) to obtain a consumer credit report about the Client; and/or

- (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

19. Force Majeure

19.1 No Party hereto will be liable nor deemed to be liable to the other Party for failure or delay in meeting any obligation hereunder due to strikes and/or lockouts (whether of their own employees or those of others and whether or not the Party against whom such action is taken could have avoided the same by acceding to the demands of the employees responsible for such action) Acts of God, war, fire, flood, embargo, litigation, acts of government or any agency instrumentality or any political subdivision thereof or any other cause beyond the control of the Party which had the duty to perform. In any such event, the time for performance of the obligations under this Contract will be extended by the same period or periods (as the case may be) for which performance is delayed. The Party so affected will use its best endeavours to avoid or remove such causes of non-performance and will continue performance hereunder as soon as such causes are removed provided that nothing in this clause will be construed as requiring the affected Party to settle any industrial dispute.

