

TJPe Terms and Conditions of Sale

1. Application of Terms and Conditions

1.1 These Terms and Conditions (Terms) apply to the provision of Goods and Services between TJPe ABN 37 503 040 550 including any and all other companies that may be traded by TJPe, and the customer for the supply of Goods and/or Services.

1.2 These Terms represent the entire agreement between TJPe and the customer for the Supply of any Goods or Services and may not be varied, waived or amended without the express approval and written consent by an authority of TJPe.

2. Definitions

2.1 Business days means a day that is not a Saturday, Sunday or public holiday in Brisbane, Queensland.

2.2 Customer means any entity or person that purchases, or seeks to purchase, Goods or Services from TJPe.

2.3 Confidential information means information that:

- a) is confidential by nature;
- b) has been established by the parties as being considered private and confidential; or
- c) the parties know or ought to know is confidential and includes, without limitation, these Terms and all information about TJPe, its customers, employees, agents, policies and operations which is made available or which becomes known throughout the course of business between the parties under these Terms but does not include information which:
 - i. was in the public domain at the time of its provision by TJPe; or
 - ii. became part of the public domain after its provision by TJPe or otherwise through disclosure by the customer.

2.4 C.P.I. means the Consumer Price Index (Brisbane) as published by the Australian Bureau of Statistics or such replacement method of reflecting changes in the cost of living for the City of Brisbane.

2.5 Force Majeure means:

- a) an act, event or cause (other than lack of funds) which is beyond the reasonable control of the party and includes but is not limited to an act of god, war, sabotage, riot, insurrection, civil commotion or unrest, national emergency, marshal law, fire, lightning, flood, cyclone, earthquake, landslide, or other adverse weather conditions, epidemic, radioactive contamination;
- b) action or inaction of a council, government body, or other competent authority (including a court of competent jurisdiction), including expropriation, restraint, prohibition, intervention, requisition, requirement, direction, embargo by legislation, regulation, decree or other legally enforceable order; and
- c) breakdown of plant, machinery or equipment required to carry on business.

2.6 Goods means the equipment, materials, any manufactured articles or other goods supplied by TJPe to the customer.

2.7 Invoice means an invoice or other document issued by TJPe to the customer, indicating any amount due, owing or payable by the customer for the provision of the Goods and/or Services.

2.8 Parties means TJPe and the customer or entity who purchase Goods and/or Services.

2.9 PPSA means the *Personal Property Securities Act 2009 (Cth)*.

2.10 Public Holiday means any gazetted public holiday in the State or Territory where the Goods and Services are to be provided.

2.11 Quote means a quotation of the cost for the provision of Goods and/or Services including any alterations that may be made on occasion.

2.12 Services means the repair and/or design of Goods or any other service supplied by TJPe for or on behalf of the customer and includes any advice and/or recommendations whether in writing or verbally by an employee, contractor, consultant or agent representing TJPe.

2.13 Terms means these Terms and Conditions.

2.14 Alteration or variation means any amendment, variation, addition or subtraction to the scope of works agreed between the customer and TJPe on occasion.

3. Engagement for the Supply of Goods and Services

3.1 Acceptance of a quote by the customer or entity, constitutes acceptance of the supply of Goods and/or Services by TJPe and shall constitute acceptance of these Terms.

3.2 TJPe reserves the right to withdraw any quote prior to acceptance, or within fourteen (14) days of receiving acceptance by the customer in accordance with clause 3.4.

3.3 Unless otherwise stated, quotations are current for a period of not more than thirty (30) days and thereafter are subject to written confirmation of currency by TJPe.

3.4 Acceptance of a quote can occur by:

- a) Signing and returning a copy of a quote and/or Terms of Sale;
 - b) Giving written or verbal instructions to TJPe in acceptance the quote for the supply of Goods and/or Services;
- or
- c) Payment of a deposit relating to the supply of Goods and/or Services.

3.5 All quotes are provided subject to withdrawal or alteration in the event that the customer required any amendment, variation, addition or subtraction to design and/or specifications.

3.6 If a quote is accepted, and the delivery date required exceeds a period of sixty (60) days, then TJPe reserves the right to amend the quote to reflect any increase in expenditure relating to the cost of materials, labour or the C.P.I.

3.7 The customer is, and remains, solely responsible for obtaining and keeping current all necessary consents, authorisations and/or approvals from any government body or other statutory authority relating to use of any Goods and/or Services contracted from TJPe.

3.8 The customer warrants to TJPe that any information, specification, design or illustration provided by the customer to TJPe do not breach the intellectual property rights of any third parties and, if such intellectual property rights do not belong to the customer, the customer has all necessary approvals and consents in writing from any third parties to make use of the information, specification, design or illustration provided to TJPe on occasion.

4. Termination and/or Cancellation

4.1 Subject to clause 3.2 above, orders may be terminated by mutual agreement between the parties and subject to:

- a) The customer paying a cancellation charge equal to ten percent (10%) of the total order; and
- b) The customer paying an amount sufficient to indemnify TJPe for any actual or prospective losses, damages and/or expenses consequent to cancellation, at the sole discretion of TJPe.

4.2 TJPe may cancel these Terms, or the delivery of Goods and/or Services at any time if:

- a) in the opinion of TJPe it will not be able to meet the requirements and/or expectations of the customer;
- b) in the opinion of TJPe the customer will be unable to meet payment obligations when they become due;
- c) the customer becomes bankrupt, insolvent, convenes a meeting with its creditors and/or proposes to enter into any arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- d) the customer fails to approve any amendments, alterations, additions or subtractions that are required to be undertaken in order for TJPe to provide said Goods and/or Services.

4.3 In the event the customer breaches these Terms, the customer shall be required to pay to TJPe, on demand, the full quoted amount plus any variation to all and any costs, expenses, charges and disbursements (including, but not limited to, legal costs and expenses on an indemnity basis) that TJPe incurs as a result of any such breach.

5. Alteration of the Scope of Works

5.1 TJPe and the customer agree that the following will constitute an alteration or variation:

- a) additional Goods to be supplied and/or Services to be carried out which were not contained in any quote or any other prior alteration;
- b) Goods and/or Services that were unknown and unable to be quoted upon at the time of any quote as a result of any unforeseen or latent aspects of the provision of Goods and/or Services which did not arise or were not identifiable until full and unfettered provision of the Goods and/or Services could be determined by TJPe; and
- c) alteration to the design and/or production requirements for Goods.

5.2 In any event the customer requires any variation as may be identified in clauses 5.1(a) to 5.1(c), TJPe will provide a written alteration to the customer which identifies any additional Services and how those Services will be charged, or any additional costs for the supply of Goods.

6. Prices and Payments

6.1 Unless otherwise stated, all prices and/or quotations provided by TJPe are:

- a) current for a period of not more than thirty (30) days;
- b) exclusive of Goods and Services Tax (GST), or any other government taxes;
- c) quoted in Australian dollars (AUD), unless expressly quoted to the contrary; and
- d) do not include freight/shipping charges.

6.2 Unless otherwise agreed, payment by the customer must be made prior to the despatch of any Goods, or in accordance with any accepted credit application.

6.3 The customer may make an application for credit permitting the payment of an account within seven (7) days of the date of despatch, or collection of the Goods or receipt of Services.

6.4 The customer acknowledges that TJPe at its sole discretion may:

- a) refuse to grant credit to the customer;
- b) withdraw or alter any credit facilities provided by TJPe; or
- c) withhold supply

6.5 The customer acknowledges that in relation to payment of any amount owing under the Terms that time is of the essence and any breach by the customer may entitle TJPe to:

- a) cancel any credit agreement and/or take legal action for the recovery of any outstanding amounts;
- b) charge compounding interest on any overdue amount at the rate of two percent (2.5%) per month calculated daily; and
- c) apply monies received first in satisfaction of accrued interest on any overdue amounts and second in reduction of unpaid invoices.

6.6 All costs and expenses incurred by TJPe, as a result of any breach of the Terms by the customer, shall be recoverable in addition to any other rights powers and/or remedies held by TJPe.

6.7 Payment by credit card is permitted and:

- a) will incur a processing fee of two percent (2.5%) of the amount to be received by TJPe; and
- b) are limited to a maximum of \$20,000 per month per customer, or as otherwise agreed by the parties.

6.8 Notwithstanding any other clause in these Terms, TJPe reserves the right to suspend the provision of Goods and/or Services in the event of non-payment or any dishonoured payment by the customer pursuant to these Terms.

6.9 TJPe will not be liable for any losses or damages sustained whatsoever by the customer as a result of suspension of Services or the provision of Goods for non-payment.

7. Delivery of Goods and/or Services

7.1 Delivery of Goods will be made, and therefore risk with respect to the Goods will pass, to the customer at the premises of TJPe or the premises of any authorised agent of TJPe.

7.2 TJPe can assist the customer with arrangement of transportation of the Goods to a location other than the premises of TJPe or the premises of any authorised agent of TJPe.

7.3 TJPe can deliver the Goods by consignment using an agent or carrier nominated by the customer, or failing nomination by using an agent or carrier at the sole discretion of TJPe.

7.4 All charges of freight, delivery and insurance will be the customer's responsibility.

7.5 Any charges for freight, delivery and insurance the customer reasonably requests TJPe to incur will be reimbursed by the customer on the date of payment for Goods.

7.6 Delivery of Goods to a third party nominated by the customer must be in writing and is deemed to be delivery to the customer, and the customer will be responsible for the risk, loss or damage to any Goods as a result of such delivery.

7.7 Delivery of Goods by TJPe shall be deemed effected upon notification to the customer that such Goods are available for collection by the customer, an agent or carrier.

7.8 Evidence of acceptance by the customer in the form of a signed receipt or delivery acknowledgement is not required by TJPe and the absence of such documentation is not conclusive of a failure to make delivery to the customer.

8. Ownership of Goods

8.1 Despite delivery and the passing of risk pursuant to clause 7.1 and consignment pursuant to clause 7.3 above, title in the Goods will not pass to the customer until:

a) the customer has paid all amounts owing for the supply of Goods; and

b) the customer has met all other obligations in respect of all contracts between TJPe and the customer, and the Goods or the proceeds of the sale of the Goods, will be kept separate until TJPe have received all monies owed by the customer.

8.2 Until TJPe has received payment in full for the supply of Goods, the customer acknowledges that TJPe has a purchase money security interest which attaches over the Goods and their proceeds and a security interest in relation to any amounts owed by the customer to TJPe.

8.3 TJPe may register its purchase money security interest and security on the Personal Property Security Register established by the PPSA, and where necessary amend the registration.

8.4 TJPe and the customer agree that sections 96 and 125 of the PPSA do not apply to the security interest created by these Terms.

8.5 To the extent permitted by law, if the PPSA applies, the customer irrevocably waives any rights the customer may have to:

- a) receive notices or statements under sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA;
- b) redeem the Goods under section 142 of the PPSA;
- c) reinstate the contract under section 143 of the PPSA; and
- d) receive a verification statement (as defined in the PPSA).

Nothing in this clause prevents TJPe from taking action against the customer for the purchase price of the Goods.

8.6 Until such time TJPe has received payment for the Goods in full:

- a) the customer agrees to take the Goods as bailee for TJPe;
- b) the customer must insure the Goods against all usual risks to full replacement value until ownership passes to the customer noting on such insurance policy the interest of TJPe and any insurance monies received by the customer in respect of Goods owned by TJPe, will be received on trust for and paid to TJPe.

8.7 The customer must, where reasonably possible, store each delivery of Goods separately, clearly identified as the property of TJPe and in a manner to enable the Goods to be identified and cross-referenced to particular invoices.

8.8 The customer may only sell, use or part with possession of Goods in the ordinary course of its business. Any sale will be as fiduciary agent for TJPe and the customer must receive on trust for and account to TJPe for that part of the proceeds of sale that equates to the amount owed by the customer to TJPe for those Goods, however this agency will only extend to the obligation to account for proceeds, and TJPe will not be bound by any contract between the customer and the customer's purchaser of the Goods.

8.9 If the customer uses the Goods in a manufacturing or value added process of its own or a third party, then the customer will hold that part of the proceeds of the manufacturing or value added process as relates to the Goods on trust for TJPe. Such part will be deemed to equal in dollar terms the amount owed by the customer to TJPe for those Goods at the time of the receipt of the proceeds.

8.10 In the event that payment in full is not made by the customer, the customer hereby authorises TJPe, together with its officers, employees and/or duly authorised agents, to enter upon the customer's premises where the Goods are situated to recover such Goods.

8.11 In the event that payment in full is not made by the customer within a time frame of thirty (30) days of the initial invoice, the customer hereby authorises TJPe to resell the Goods to any other interested party, with any partial payment not to be reimbursed.

8.12 Failure of TJPe to deliver the Goods within an agreed timeframe does not entitle the customer to treat the contract as repudiated.

8.13 Unless expressly agreed between TJPe and the customer in writing, all intellectual property and technical know-how acquired, created, developed and/or produced by TJPe in the course of producing any Goods and/or Services shall remain the sole property of TJPe. Such retention extends to any knowledge gained in developing

software and/or hardware modules or other technical applications (circuitry) deemed to be not patentable and of common knowledge within the electronics and electrical industry.

8.14 The provisions of this clause 8 will survive termination of these Terms or any other agreement between TJPe and the customer for the sale of Goods, for whatever reason.

9. Performance

9.1 The performance by TJPe of the terms of this agreement is subject to the availability of the necessary Goods and Services to enable TJPe or any of its agents to fulfil the order.

9.2 TJPe will use its best efforts to fill all accepted orders in accordance with delivery dates agreed to and/or specified by the customer or, if no delivery dates are specified, as soon as practicable but in no event will TJPe be liable for any claims, costs, losses, expenses or damages resulting from any delay in delivery or performance or for any failure to deliver the delivery date due to any causes beyond its control.

10. Defects

10.1 TJPe warrants that any Goods or Services sold to the customer will upon consignment by TJPe be free from defects in material or workmanship for a period of twelve (12) months in the case of new Goods and three (3) months in the case of any and all repairs, from the date of the invoice (or original invoice if more than one invoice issued).

10.2 If a defect appears which the customer believes is covered by clause 10.1 above, TJPe at its option will repair, replace or issue credit based on an equitable adjustment in price to the customer. Replacement parts or Goods will be furnished on an exchange basis and will be either reconditioned or new. All defective parts will be returned to TJPe and will become the property of TJPe.

10.3 The express warranties in 10.1 above shall only apply if:

- a) TJPe is notified in writing within seven (7) days of the discovery of any relevant defect;
- b) TJPe is satisfied that after consignment that the Goods have been properly handled, carried, installed, stored, used and maintained and that the customer has complied with any applicable recommendations of TJPe and that the Goods have not been altered or modified in any way by any person; and
- c) TJPe has obtained from the suppliers of materials and components incorporated into the Goods warranties in terms similar to the warranties contained herein; and payment has been made strictly in terms of this agreement.

10.4 In addition to the general exclusions contained in clause 10.3 above TJPe will not be responsible for the non-performance of Services or malfunction of or damage to any Goods supplied to the customer arising from:

- a) malicious interference caused to the Goods or its installation;
- b) storm, tempest, flood, fire, earthquake and other acts of God;
- c) war, invasion, act of foreign enemy, hostilities, civil war, rebellion, revolution, pandemic, insurrection or military or usurped power;

d) modification or interference to the equipment by the customer or on the customer's behalf without the written express permission by an authority of TJPe;

e) abnormal variation in electrical power supply;

f) failure of ancillary equipment not part of the Goods; and

g) fair wear and tear.

Any expenses incurred by TJPe in detecting or isolating such non-performance malfunction or damage so caused will be borne by the customer.

11. Refunds

TJPe will make compliance with all State and Federal obligations with respect to the issue of refunds and/or credits for Goods and/or Services supplied.

12. Limitation of Liability

12.1 In the Event of a breach of these Terms by TJPe, any remedy available to the customer is limited to damages. The customer will not have any claim for damages greater than the cost of the Goods or Services provided.

12.2 To the extent permitted by law and except as provided in these Terms, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, description, suitability or fitness of the Goods and/or Services for any purpose are expressly excluded. TJPe is not liable for physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, design, function or use of the Goods supplied or acceptance of the Services provided by TJPe.

12.3 TJPe will not be liable, and the customer hereby indemnifies TJPe against any loss or damages suffered by the customer due to any delay in the provision of Goods and/or Services where a fixed delivery date has been agreed and the delay is:

a) beyond the power or control of TJPe;

b) caused by a breakdown in any tools or equipment of TJPe;

c) contributed to or caused by the customer; and/or

d) a result of Force Majeure.

12.4 TJPe will not be liable, and the customer hereby indemnifies TJPe against any loss or damage suffered by the customer, where TJPe is only engaged to make provision of Goods utilising information, specifications, designs or illustrations provided by the customer or any third party and such Goods are subsequently not fit (due to issues with the information, specifications, designs or illustrations) for any intended purpose.

13. Legislation

13.1 Nothing in these Terms is intended to have the effect of contracting out of any applicable provision of the Australian Consumer Law as set out in Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*.

14. Privacy

14.1 In providing the Goods and Services, TJPe agrees to comply with the National Privacy Principles (NPP) as set out in the *Privacy Act 1988 (Cth)* and any other applicable legislation or privacy guidelines.

14.2 TJPe warrants that it will not:

- a) sell, distribute, or lease the customer's personal information to any third party unless TJPe has the customer's permission or is required by law to do so; and
- b) attempt to gain any personally identifiable information from other individuals about the customer.

14.3 The customer agrees that TJPe may give to, and seek from, any credit providers named in any credit application and any credit providers that may be named in the credit report issued by a credit report agency, information about the customer's credit arrangement.

14.4 The customer understands that this information can include details about the customer's credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give or receive from each other under the *Privacy Act 1998 (Cth)*.

14.5 The customer understands that the information may be used for the following purposes:

- a) to assess any application for credit by the customer;
- b) to notify other credit providers of any defaults by the customer;
- c) to exchange information with other credit providers as to the status of the customer's credit account with TJPe when the customer is in default with credit providers; and
- d) to assess the customer's credit worthiness.

14.6 TJPe may give personal or commercial information about the customer to a credit reporting agency for the following purposes:

- a) to obtain a credit report about the customer; and
- b) allow the credit reporting agency to create or maintain a credit information file containing information about the customer.

15. No Set-Off or Deduction

The customer acknowledges that all Invoices are payable in full and it will have no entitlement to any deduction or set-off against TJPe arising from any dissatisfaction or any perceived or actual counterclaim that the customer may have with TJPe.

16. Alteration, Waiver and Jurisdiction

16.1 TJPe may alter or waive any of these Terms at any time at its sole discretion.

16.2 The waiver of any breach of a term or condition contained herein does not constitute a waiver of another breach of the same or any other term or condition under these Terms.

16.3 The customer acknowledges that the formation of all contracts between TJPe and the customer is deemed to occur in the State of Queensland and shall be governed by those laws.

16.4 These Terms are governed by the laws of the State of Queensland of the provision of Goods and/or Services for the purposes of the interpretation and application of those Terms.

16.5 In the event TJPe signs a supplementary agreement with a customer, it will only apply to the extent that it is consistent with these Terms.

17. Entire Agreement

17.1 These Terms represent and contain the entire Terms agreed between TJPe and the customer in relation to the provision of Goods and/or Services by TJPe to the customer and supersedes all prior negotiations and conversations.

17.2 The customer expressly acknowledges that any information that may have been provided by TJPe on occasion is to the best ability and knowledge of TJPe. However, TJPe will not be bound by any quotes, fee estimates or scope of work that may have been discussed with, or provided by TJPe to, the customer unless subsequently confirmed in a quote.

17.3 These Terms will bind the customer, its successors, heirs and permitted assigns and likewise be for the benefit of TJPe, its successors and permitted assigns.

17.4 Despite any prior or subsequent provision of a purchase order by the customer containing different or additional terms and conditions, these Terms and Conditions shall apply to all provisions of Goods and/or Services supplied to the customer by TJPe unless otherwise expressly agreed to by an authority of TJPe in writing.

18. Relationship of Parties

18.1 These Terms are not intended to create a relationship between the parties of partnership, joint venture, agency or employer-employee.

18.2 TJPe has no authority to create, assume or otherwise enter into any agreement that imposes rights or obligations on the part of the customer.

19. Privity of Contract

The customer cannot and must not assign or attempt to assign any of its rights or obligations under these Terms without first obtaining the express approval and consent of TJPe in writing, which may be refused and/or withheld at the sole discretion of TJPe.

20. Severability

If any part or all of a clause of these Terms is deemed void, illegal or unenforceable, the offending part or clause may be severed from the Terms without affecting the enforceability of the remaining clauses of the Terms.

By signing below, you confirm your acceptance and understanding of the full Terms and Conditions of Sale set out by TJPe.

Terms and Conditions acceptance by Customer	
Customer Name:	
Authorised Signature:	
Date:	