

## 1. DEFINITIONS

In these Terms and Conditions, unless the context otherwise requires:

- 1.1. General Terms and Conditions of Sale for Modra Technology Pty Ltd, hereinafter referred to as "Modra".
- 1.2. "Tax" means Goods and Services Tax, VAT or any other tax.
- 1.3. "Customs Duty, Fees and Charges" means charges arising as a result of the import or export of Goods as determined by the responsible Customs Department(s).
- 1.4. The "Buyer" means the person or persons, company or business entity as described in the Contract.
- 1.5. The "Goods" means the goods or product(s) sold by Modra to the Buyer as agreed or described in the Contract.
- 1.6. The "Services" means any services provided for Modra.
- 1.7. The "Contract" means any contract, quote, proposal or pro forma invoice issued by Modra.

## 2. QUOTES

- 2.1. Any quotation provided is an invitation to trade only and not an obligation to sell or offer.
- 2.2. In the event of any counteroffer by the Buyer, the Contract shall prevail.
- 2.3. Alterations to any term or condition may be agreed in the Contract, with the remaining terms and conditions standing.

## 3. PRICE

- 3.1. Modra reserves the right to vary any price quoted either orally or in writing. Any Quote given on price is an estimate only.
- 3.2. The price excludes Tax, Customs Duty, Fees and Charges and Freight unless specified.

## 4. AVAILABILITY OF GOODS

- 4.1. Any availability or lead times quoted are provided as an indication in good faith at the time of enquiry and are not binding. Availability or lead times quoted are subject to prior sales. Modra assumes no liability or loss due to late or delayed delivery of goods.
- 4.2. Modra will not be liable for any failure to deliver the Goods or Services if the failure arises as a consequence of fire, embargo, strike, inability to secure materials or labour, or any other circumstances beyond the control of Modra

## 5. DELIVERY AND RISK OF CARRIAGE

- 5.1. The Goods shall be delivered to the Buyer's "ship-to" address as listed on the Contract, or as otherwise notified to Modra at the time of order.
- 5.2. Risks pass from Modra to the Buyer in accordance with the INCOTERM (International Commercial Terms, latest version) quoted on the Contract.
- 5.3. Where possible, Modra will ship as agreed. Where it is not possible to ship as agreed due to circumstances beyond the control of Modra, the Buyer will be notified as soon as possible to advise alternative shipping arrangements.

## 6. CUSTOMS, DUTIES AND TAXES

All duties, taxes and charges are to the Buyers account, unless otherwise stated in the Contract and in accordance with INCOTERM (International Commercial Terms, latest version).

## 7. EXPORT DOCUMENTATION

Standard documents provided for shipments are packing list, commercial invoice, and AWB or Bill of Lading. Direct and associated costs of other documents required for import to the destination country or required by the Buyer for other purposes including, but not limited to, Certificate of Origin & Legalization of documents are to the Buyers account and will be passed on to the Buyer on a separate invoice, in addition to quotation or contract amount where applicable.

## 8. TERMS OF PAYMENT

- 8.1. Unless otherwise stated, terms of payment are pre-paid, prior to dispatch of goods.
- 8.2. Where the Buyer fails to comply with any payment terms, Modra reserves the right to;
  - 8.2.1. Withhold further deliveries or goods or services.
  - 8.2.2. Should the Buyer delay or default in respect of any payment due, Modra shall have the right to charge

interest on all sums owed for payment to Modra at the rate of 15% per annum.

- 8.2.3. Recover from the Buyer the cost of recovering any recoverable goods.

- 8.3. All payments made by the Buyer shall be applied first in reduction of any interest owing and then in reduction of the invoice/s amount.

- 8.4. All costs associated with the collection of overdue accounts, including debt collection and legal costs on a full indemnity basis, are recoverable from the Buyer.

- 8.5. Where payment by Letter of Credit:

- 8.5.1. Terms shall be 100% irrevocable at sight unless otherwise agreed.

- 8.5.2. Modra will provide to the Buyer guidelines for the issuance of the Letter of Credit to be provided to the Buyers bank.

## 9. PAYMENT INSTRUCTIONS

- 9.1. All international payments are by t/t

AUD – Branch (BSB): 083 953 Account: 53017 8914

USD - Account: MODRAUSD01

EUR - Account: MODRAEUR01

GBP - Account: MODRAGBP01

Bank Swift Code (all accounts) NATAAU3303M

Account in name of:

Modra Technology Pty Ltd

Bank Name: National Australia Bank

Bank Address: Warragul, Victoria, Australia

Bank Telephone: +61 3 5623 1256

- 9.2. All bank charges outside Australia are to the buyers account

- 9.3. Instructions to bank: do not convert currency

## 10. INTEREST IN GOODS AND RESEVATION OF TITLE

- 10.1. Goods shall remain the sole and absolute property of Modra as legal or equitable owner until they have been paid for in full.

- 10.2. All costs, including but not limited to; transportation costs, storage costs and costs of resale incurred by Modra as a result of it exercising any of its rights hereunder in the event of default by the Buyer, shall be borne by the Buyer.

## 11. CLAIMS

- 11.1. Claims for shortage of goods must be made within 7 days of receipt of the consignment.

- 11.2. Claims for non-delivery of goods must be made within 30 days of the shipping date. An e-mail including the tracking number is e-mailed on dispatch by Modra to the Buyer as notification of the date that goods have been shipped.

## 12. RETURNS

- 12.1. Credit for goods returned is at Modra's discretion and, if accepted, incur a restocking fee of 10% or min of AUD50.00, whichever is greater. In addition, returned goods will only be accepted for credit if the goods are in a resalable condition as well as in original packing and with all product documentation included (unless supply error).

- 12.2. All goods specifically manufactured for the Buyer will not be returnable except due to defect unless otherwise agreed to in writing.

- 12.3. Goods must be returned at the Buyers expense and have prior "Return Authorisation" in writing from Modra.

## 13. WARRANTY

- 13.1. Notwithstanding anything herein Modra agrees to provide the following Warranties to the Buyer to repair or replace the Goods for faulty workmanship, design or materials:

- 13.1.1. Reconditioned & repaired goods - 60 days.

- 13.1.2. Spare Parts - 6 months.

- 13.1.3. Machinery - refer warranty information in the Contract.

- 13.2. Modra's responsibility is limited to:

- 13.2.1. the replacement of the Goods or Services; or

- 13.2.2. the supply of equivalent goods or services; or

- 13.2.3. payment of the cost of replacing the Goods or Services or acquiring equivalent goods; or

- 13.2.4. the repair of the Goods or payment of the cost of having the Goods repaired, as Modra may select.
- 13.3. Warranties given exclude claims for or damage resulting from:
- 13.3.1. Inclement weather.
- 13.3.2. Fire, explosion, act of God or other like cause.
- 13.3.3. Unauthorised alterations, additions or tampering of the Goods, loose plugs or leads not hardwired.
- 13.3.4. Other events beyond control of Modra.
- 13.3.5. Use beyond specification or design.
- 13.4. During the warranty period, Modra will correct any defaults in components or workmanship, or any failure of the hardware to conform to specifications at no charge for in-house labour and materials. Any replacement parts or product will be new or serviceably used and are warranted for the remainder of the original warranty or thirty (30) days from the date of shipment of such parts or product, whichever is longer. The Buyer is responsible for paying the cost of shipping parts or product to Modra for warranty service and for insuring the shipment. The Buyer is responsible for any taxes, goods and services taxes, value added taxes, customs fees or duties that may be due, even if the delivery is refused.
- 13.5. The warranty period applicable to the product is not extended as a result of purchasing any additional parts/products from Modra or upgrading the product. The Buyer must promptly notify Modra in writing if there is a defect in components or workmanship. Modra must receive written notice in all events before the expiration of the warranty period.
- 13.6. The warranty is not transferable.
- 14. SERVICE**  
Any Service or advice which may be offered by Modra, its employees or agents is given in good faith and Modra shall not be liable for any loss or damage as a result.
- 15. LANGUAGE**  
All documentation will be issued in English. Training (where applicable) will be carried out in English. Editable versions of documents will be made available to the Buyer on request. Document translations are at the Buyers cost.
- 16. COMMISSIONING, TRAINING, SERVICE AND OTHER ON-SITE SERVICE VISITS**
- 16.1. In the event it is not possible for a Modra technician to attend the Buyers site for an agreed installation, service or training visit, Modra will use its best endeavours to perform the required service remotely, supported by video tutorials, written instructions, video meetings (Teams or similar) and remote dial-in. As soon as possible after the restriction has been lifted, the Modra technician can visit the Buyers site for an agreed period of time.
- 16.2. In the case of a delayed or cancelled site visit at the request of the Buyer, except for force majeure cases, the Buyer shall compensate Modra for any expenses incurred as a result of the cancellation or delay, including but not limited to travel expenses including airfares, tolls, visa processing fees and the like.
- 16.3. During all on site visits local transport, hotel (to western standards) and meals during the installation are to the Buyers account and need to be arranged, booked and paid for by the Buyer.
- 16.4. The Buyer shall exercise due diligence in the safety and comfort of Modra's staff during any installation and is requested to advise on local laws and customs where appropriate.
- 16.5. It is assumed that the location the Modra technician is to attend is considered safe to travel to. Where the location is within or close to a conflict zone and the Australian Government recommends "Reconsider your need to travel", Modra may require the Buyer to make alternative arrangements for the services to be provided.
- 17. PRIVACY**  
We use personal information as supplied by the Buyer to process and deliver orders, for marketing and to access credit worthiness information.
- 18. GOVERNING LAW OF CONTRACT**  
These GENERAL TERMS AND CONDITIONS OF SALE are governed by and are construed in accordance with, the Law of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of Victoria and any court hearing appeals from those courts.
- 19. FORCE MAJEURE**
- 19.1. Except with respect to agreed payment obligations, no party shall be liable for, nor shall such party be considered in breach of any Agreement due to, any failure to perform its obligations under this any Agreement as a result of a cause beyond its control, including any act of God or a public enemy or terrorist, act of any military, civil or regulatory authority, change in any law or regulation, fire, flood, earthquake, storm or other like event, disruption or outage of communications, power or other utility, labour problem, unavailability of supplies, pandemic, or any other cause, whether similar or dissimilar to any of the foregoing, which could not have been prevented by such party with reasonable care (each, a Force Majeure event).
- 19.2. In the event of any such excused delay, the time for performance of obligations (other than a payment obligation) shall be extended for a period equal to the time lost by reason of the delay. A Party claiming the benefit of this provision shall, as soon as reasonably practicable after the occurrence of any such event, (a) provide written notice to the other Party of the nature and extent of any such Force Majeure condition; and (b) use commercially reasonable efforts to remove any such causes and resume performance as soon as reasonably practicable.
- 20. PENALTY FOR DELAY**  
In the case of delayed shipment of goods or provision of services at the request of the Buyer, except for force majeure cases, the Buyer shall not delay previously agreed payment due dates. A Penalty Fee calculated in accordance with clause 8.2 of these Terms and Conditions will apply.
- 21. CONTACT DETAILS**  
Modra Technology Pty Ltd  
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Warragul, Vic, 3820  
AUSTRALIA  
Tel: +61 3 5622 3261  
Fax: +61 3 5622 3683  
Email:  
Machinery & spare parts - sales@modra.com  
Machine service and support - support@modra.com  
Accounts - accounts@modra.com