

## 1. STANDARD TERMS

- (a) SpeedX Pty Ltd (ABN 46 135 095 886) (**Company**) requires that all of the following terms and conditions apply to every sale made or agreed to be made by the Company. They shall govern each contract defined as an agreement to sell, either by acknowledgment of the purchaser's order, or by the dispatch of the goods requested. These conditions cannot be varied or waived except with an expressly written approval of the Company. Any conditions submitted by the purchaser, in whatever form, are expressly waived and excluded except where written agreement is given by the Company in exceptional cases.

- (b) All purchase orders supplied by the purchaser are subject to acceptance by the Company and no contract between the Company and the purchaser comes into existence unless and until the Company issues a confirmation in relation to the order.

## 2. PRICES

- (a) Quoted prices of all goods and services are exclusive of goods and services or value added taxes unless otherwise stated.
- (b) The price of goods and services does not include packaging costs, delivery costs, taxes, insurance, duties and other impositions applicable to the provision of the goods, all of which will be borne by the purchaser.
- (c) The Company recommends that purchasers acquire insurance in respect of the goods and services.

## 3. PAYMENT TERMS

- (a) Payment for the full amount invoiced by the Company must be made within 30 days from the invoice date without any deduction or set off. Payments must be made in the currency invoiced.
- (b) The Company may at its discretion charge interest on any amounts outstanding after the due date, at a rate of 2% per 30 days, calculated daily until final payment.
- (c) In the event of late payment, the Company may, at its discretion, suspend or cancel future deliveries. This will not prevent recourse to other rights or remedies available to the Company.
- (d) Until payment in full is received by the Company, the title in all the goods supplied by the Company remains with the Company and the purchaser holds the goods only as bailee for the Company and the purchaser must safely and securely store the goods.

## 4. DELIVERY AND ACCEPTANCE

- (a) All goods supplied by the Company will be dispatched by methods judged the most appropriate by the Company to ensure the safe delivery of the goods. Biological goods supplied by the Company will generally be transported by cold storage chain, unless otherwise agreed.
- (b) The purchaser bears all risk associated with the transport and delivery of the goods. The Company recommends that the purchaser elects to take up suitable insurances, at the purchaser's cost, against the risk of damage, loss or theft of the goods.
- (c) The Company will endeavour to dispatch the goods as quickly as possible. Any times quoted for delivery are estimates only. The Company is not liable for any loss or damage howsoever arising from delays in delivery.
- (d) From time to time, the Company may not be able to supply all of the goods and/or services ordered. The Company is not liable for the failure to supply any goods and/or services ordered (whether in whole or in part), and the purchaser will have no rights against the Company in relation to any such failure. In the event that the Company cannot supply all of the goods and/or services ordered, the Company will endeavour to contact the purchaser to determine whether there is a suitable substitute or, if there is none, to refund to the purchaser such money paid in respect of those goods and/or services that the Company is unable to supply.
- (e) The purchaser must inspect goods immediately on their delivery and must, within 10 days from delivery give notice in writing to the Company of any matter or thing not in accordance with the specifications for the goods (excluding damage or other issues arising from the transport and delivery of the goods). If the purchaser does not give such notice, the goods will be deemed to comply in all respects with their Specifications (defined below) and the purchaser is deemed to have accepted the goods and will be required to pay for them accordingly. If the goods fail to comply with their Specifications, the Company agrees at its option and cost, to replace the goods or refund the applicable money paid by the purchaser
- (f) Where delivery of the goods requires an export licence or other authorisation before shipment, the Company shall not be responsible for delivery delays resulting from a delay in the granting, or refusal of, such authorization.

## 5. CANCELLATION, REDUCTION AND RETURN OF ORDERS

- (a) The purchaser may cancel or reduce an order by giving written notice to the Company. An order may not be cancelled or reduced after it has been dispatched by the Company. An order cancellation or reduction fee will apply if the order is cancelled or reduced within 14 days prior to dispatch. The purchaser indemnifies the Company against all losses or costs arising from the cancellation or reduction of goods and/or services.
- (b) Owing to the temperature requirements of our products, the quality of returned goods cannot be guaranteed. Consequently, we cannot accept returned goods in the event of a purchasing error.

## 6. SPECIFICATIONS AND USE

- (a) The Company warrants that its goods and/or services will at the time of dispatch conform to the product specification sheets in effect at the time the goods were dispatched or the services provided (**Specifications**).
- (b) After accepting an order, the Company may make modifications to the goods without informing the purchaser, it being understood that such modifications are improvements, not adversely affecting the performance of the goods.
- (c) The goods and services supplied by the Company i) must only be used for the intended purpose; ii) must be used and stored in accordance with the instructions and directions provided by the Company (including on its website) or otherwise in accordance with all directions of the Company and all applicable laws, regulations, guidelines and proper professional standards; iii) must be used within the shelf life as may be advised by the Company; iv) are subject to the precautions and warnings provided with the goods and/or services; v) may not be supplied to any third party; and vi) may only be used by such employees or agents of the purchaser that are appropriately qualified and trained in the use of the Company's goods or services.

## 7. INTELLECTUAL PROPERTY

- (a) The Company retains all intellectual property rights, in any goods and services which it provides and all progeny and unmodified derivatives thereof.

## 8. RISK AND TITLE

- (a) Except as otherwise provided herein, the goods supplied by the Company to the purchaser shall be at the purchaser's sole risk immediately on their delivery to the purchaser.
- (b) Property and title in the goods supplied by the Company to the purchaser will not pass to the purchaser until such time as the goods supplied by the Company to the purchaser have been paid for in full.
- (c) Subject to the *Personal Property Securities Act 2009* (Cth) (**PPSA**), until such time as the goods have been paid for in full the purchaser is at liberty to use or sell the goods in the ordinary course of its business, and the purchaser shall hold the proceeds thereof in trust for the Company and promptly account to the Company for those proceeds in payment of the purchase price for the goods.
- (d) The purchaser and the Company agree that the provisions of this clause apply notwithstanding any agreement between the parties under which the Company grants the purchaser credit.

## 9. PPSA

- (a) The terms "Collateral", "Debtor", "Financing Change Statement", "Financing Statement", "Grantor", "Proceeds", "Secured Party", "Security Agreement" and "Security Interest" have the meanings given in the PPSA.
- (b) The Company may refuse to sell or supply goods to the purchaser until the purchaser provides all details and data needed to register a "Financing Statement" or "Financing Change Statement" under the PPSA with respect to any Security Interest the subject of these terms and conditions.
- (c) If the purchaser makes any payment to the Company, the Company may apply the payment to satisfy any obligation of the purchaser to the Company (whether unsecured, secured by Security Interest, or secured by purchase money security interest). The Company may: (a) apply the payment in any order or manner that it (in its absolute discretion) thinks fit; and (b) amend or re-apply any application made.
- (d) Sections 95, 121(4), 125, 130, 132(3)(d), 132(4), and 135 of the PPSA are excluded and contracted out of to the full extent permitted by section 115 of the PPSA. The purchaser waives the right under PPSA section 157 to receive a notice in relation to registration events which relate to collateral described in the registration as commercial property.
- (e) This clause 9 will survive the termination of the contract to the extent permitted by law.

## 10. RISK AND LIABILITY

- (a) The purchaser acknowledges that there are a number of risks associated with the goods and services provided by the Company. The goods and services are specialist goods and services for use by specialists and are not of a kind ordinarily acquired for personal, domestic or household use or consumption.
- (b) The purchaser will use the goods and/or services at its own risk and will obtain and must maintain adequate insurance in respect of its use, storage and disposal of the goods or services provided by the Company.
- (c) If any product or services does not conform to the Specifications, the Company's liability is limited, at the Company's option, to either the replacement or re-supply of the goods or services or refund of the purchase price. No claim under the warranty will be met if, in the opinion of the Company, the defect is not due solely to defective materials or manufacture, or the goods have been misused, treated with carelessness, contaminated or dealt with in a manner contrary to the intended purpose or the Company's directions. To the maximum extent permit permitted by law, the Company's aggregate liability shall in no event exceed the amounts paid by the purchaser with respect to all product or services that give rise to the loss or liability.
- (d) Other than the express warranty in clause 6(a), the purchaser acknowledges that the goods and/or services are supplied without any warranty, express or implied, including without limitation, any warranty of accuracy, completeness, safety, merchantability or fitness for a particular purpose. To the full extent permitted by law, the Company excludes all warranties and conditions, express or implied or otherwise, in relation to the product provided, other than as to the conformity with the Specification, and accepts no liability in tort, contract, under statute or otherwise for any kind of loss, damage or injury suffered by any person as a result of the use of the product, including economic loss or any other direct, indirect, incidental, consequential or special loss or damage, however caused (including by the negligence of the Company).
- (e) The Company's entire liability for a breach of any condition or warranty implied under any law which cannot lawfully be modified or excluded is limited, as permitted by law, at the option of the Company to either replacement or re-supply of the goods or services or refund of the purchase price. Without limiting the preceding sentence, the Company's maximum liability, if any, shall not exceed the purchase price paid by the purchaser for the goods.
- (f) **Indemnity.** The purchaser unconditionally and irrevocably indemnifies and releases the Company and its officers, employees and agents against all costs claims, expenses, charges, losses, damages, penalties and liabilities of any kind that the Company or the purchaser may incur arising directly or indirectly or in any way connected with the purchaser's acquisition or use of the goods and/ or services.

#### 11. PATENT DISCLAIMER

- (a) No licence or immunity under any patent is either granted or implied by the sale of any of our products.
- (b) The Company does not warrant that the use or resale of its products delivered will not infringe the claims of any patents, trademarks or copyright covering use of the product itself, or its use in combination with any other products, or its use in the operation of any process. Furthermore, the purchaser assumes all risks of patent, trademark or copyright infringement associated with any such use, combination or operation.

#### 12. GENERAL

- (a) **Dispute Resolution.** If a dispute arises between the parties, the parties agree to negotiate in good faith to resolve the dispute and will refer resolution of the dispute to senior executives of the parties for resolution. If the dispute has not been resolved by negotiation within a reasonable time then either party may refer the dispute to mediation prior to initiating proceedings in a court to resolve the dispute.
- (b) **Confidentiality.** Neither party may use or disclose to a third party any confidential or proprietary information concerning the business or affairs of the other party or of its related entities, or concerning these terms and conditions or the goods and services provided under this agreement. The receiving party shall take all necessary precautions to prevent any such disclosure by any of its employees or officers. Each party's obligations of confidentiality will survive expiration or termination of this agreement and will continue until the confidential information lawfully and without breach of confidence becomes part of the public domain. Nothing in this clause prevents disclosure required by law.
- (c) **Amendment.** The Company may vary or replace these terms and conditions at any time and will maintain the current version on the Company's website. The version of these terms and conditions in effect at the time at the date the Company acknowledges a purchase order or dispatches goods, will apply.

- (d) **Force Majeure.** The Company will not be liable for any failure to carry its obligations under these terms and conditions where such failure is due to any cause beyond the reasonable control of the Company.
- (e) **Relationship.** These terms and conditions do not create any other relationship between the Company and the purchaser, including any relationship of partnership, agency, trust, joint venture or otherwise.
- (f) **Governing law.** These terms and conditions are governed by the laws of the State of New South Wales, Australia and each party submits to the jurisdiction of the courts of that State and courts of appeal therefrom.