

# STANDARD SALES TERMS & CONDITIONS

## 1. TERMS OF AGREEMENT

- 1.1. The sale of products ("Products") and supply of repairs and maintenance services (but not, for example software-as-a-service or other cloud-based services) ("Services") by Hygiena Australia Pty. Ltd (ABN) 35 665 146 467 and its related bodies corporate including Hygiena LLC ("Hygiena") to a customer ("Customer") are subject to these terms and conditions ("Agreement").
- 1.2. No other terms or conditions in any purchase order, document, or other communication of Customer or Hygiena failure to object to such other terms will form part of this Agreement unless executed by the parties in writing as an express variation to this Agreement.
- 1.3. This Agreement may only be modified in writing signed by authorized representatives of both Hygiena and Customer.

## 2. ORDERS

- 1.4. Unless otherwise stated on the quote, Hygiena quotes are invitations to tender and are subject to change at any time without notice. All Customer requests for the provision of a supply of Products or Services in response to a quote ("Proposed Orders") are subject to acceptance by Hygiena. Contracts between Customer and Hygiena are formed upon Hygiena's written acceptance, Electronic Data Interchange ("EDI") acknowledgment or execution of Customer's Proposed Order (at which point they become an "Order"). If Hygiena does not accept a Proposed Order within a reasonable period of Customer making the request, that Proposed Order will lapse and no Order will be formed.
- 1.5. To the maximum extent permitted by law, Hygiena makes no warranty, express or implied in relation to the Products or Services, such as warranty of merchantability, fitness for purpose or non-infringement. This does not limit or exclude any rights or guarantees under Australian Consumer Law.

## 3. PRICES AND TERMS

- 1.6. The prices payable by Customer for Products or Services to be supplied by Hygiena under this Agreement will be specified in the applicable Order. Unless otherwise expressly stated in an Order, all prices exclude shipping and taxes.
- 1.7. Unless otherwise agreed upon in writing, payment terms are net thirty (30) calendar days from the date of the invoice. If Customer does not pay an invoiced amount within terms, Customer will in addition pay finance charges of one and one-half percent (1.5%) per month on the late balance and Hygiena reserves the right to (1) withhold shipment of Products (including under another Order) until full payment is made; (2) suspend the supply of Services; and/or (3) require upfront payment before delivery of any Products or supply of Services under future Orders.

## 4. DELIVERY.



If the Products are transported to you via ship, Products will be delivered FOB Hygiena's manufacturing facility. All Products will be shipped to Customer via carriers selected by Hygiena, scheduled for delivery at the address specified by Customer on, or as close as possible to the date required by the Customer. The Customer must make all arrangements necessary to take delivery of the Products whenever they are tendered for delivery. If Hygiena is unable to deliver the Products because of actions or circumstances under the control of the Customer, then Hygiena will be entitled to place the Products in storage until such times as delivery may be effected and the Customer will be liable for reasonable expenses associated with such storage. Any damages, shortages, over deliveries and duplicated Orders should be reported to Hygiena within 14 calendar days of signed receipt to enable replacement or refund.

## **5. PRIVACY.**

Customer must comply with the Privacy Act 1988 (Cth) and the Australian Privacy Principles ("Privacy Act") in relation to any personal information (as defined in the Privacy Act) ("Personal Information") that it discloses to Hygiena, including obtaining all required consents, and making all required disclosures and notifications to ensure that Customer has the right to provide and disclose to Hygiena the Personal Information. Hygiena will comply with the Privacy Act in relation to Personal Information disclosed to it by the Customer.

## **6. LIMITATION OF LIABILITY.**

To the maximum extent permitted by law and subject to clause 7, Hygiena's liability to Customer is limited to Customer's direct damages up to an amount not exceeding the price of the Product or Service at issue. This limitation of liability does not apply in case of death or personal injury caused by Hygiena's negligence. Hygiena is not liable for and Customer is not entitled to any indirect, special, incidental or consequential damages (being losses that do not flow directly, that is naturally, from the event or circumstance giving rise to the loss), or for loss of profits or revenue, loss of data, loss of use, rework, repair, manufacturing expense, costs of product recall, injury to reputation or loss of customers).

## **7. AUSTRALIAN CONSUMER LAW.**

If the Competition and Consumer Act 2010 (Cth) or any other legislation provides that there is a guarantee in relation to any good or service supplied by Hygiena in connection with this Agreement and Hygiena's liability for failing to comply with that guarantee cannot be excluded but may be limited, then clause 6 does not apply to that liability and instead Hygiena's liability for such failure is limited to (at Hygiena's election) in the case of goods, replacing the goods or supplying equivalent goods or repairing the goods and, in the case of services, Hygiena supplying the services again or paying the cost of having the services supplied again. If Customer considers that a Product or Service does not comply with a guarantee under Australian Consumer Law, then Customer should contact Hygiena in the first instance and seek a return material authorization number.

## **8. FORCES BEYOND HYGIENA'S CONTROL.**

Hygiena is not liable for failure to fulfill or delay in fulfilling its obligations under this Agreement due to causes beyond its reasonable control (for example, acts of nature, acts or omissions of Customer, operational disruptions, man-made or natural disasters, epidemic medical crises, materials or



product shortages, strikes, criminal acts, delays in delivery or transportation, or inability to obtain labor, materials or products through regular sources).

## 9. USE OF PRODUCTS AND SERVICES.

Customers must comply with the manufacturer's Product specifications and any reasonable directions of Hygiene in relation to a Service. If Customer fails to comply with the manufacturer's Product specifications or Hygiena's reasonable directions in relation to a Service, Customer acknowledges that such use, sale, or non-compliance is at Customer's sole risk. Customer must indemnify, defend, and hold Hygiena harmless from any claims based on: (i) Hygiena's compliance with Customer's designs, specifications, or instructions, (ii) modification of any Product or Service (or output of a Service) by Customer or Customer personnel, or (iii) Customer use of Products, Services, or outputs of Services in combination with other products or services or in violation of this clause. However, this indemnity will be reduced proportionately to the extent that any liability, loss, damage, cost, or expense is caused by the negligent or wrongful acts or omissions of Hygiena.

## 10. EXPORT/IMPORT.

Certain Products, Services and related technology sold by Hygiena are subject to export control regulations of the United States, the European Union, and/or other countries, excluding boycott laws ("Export Laws"). Customer must comply with such Export Laws and obtain any license or permit required to transfer, export, re-export or import the Products or Services and related technology. Customer must not export or re-export the Products, Services and related technology to any country or entity to which such export or re-export is prohibited, including any country or entity under sanction or embargoes administered by the United States, European Union, or other countries. Customer must not use the Products, Services, and related technology in relation to chemical, biological, or nuclear weapons, rocket systems (including ballistic missile systems, space launch vehicles and sounding rockets) or unmanned air vehicles capable of delivering same, or in the development of any weapons of mass destruction.

## 11. GST.

In this clause, capitalised terms have the same meaning as they have in the A New Tax System (Hardware and Services Tax) Act 1999 (Cth). All sums expressed in, or in connection with, this Agreement are GST-exclusive sums unless expressly stated otherwise. If a party makes a Taxable Supply under or in connection with this Agreement ("Supplier"), the other party ("Recipient") must pay to the Supplier at the same time, and in addition to the GST-exclusive consideration, an amount equal to the GST payable on that Taxable Supply provided the party making the Taxable Supply has given the Recipient a tax invoice. If an Adjustment Event arises in connection with a Taxable Supply made under this Agreement, the person making the Taxable Supply must give the other party an Adjustment Note in accordance with the GST Law. If this Agreement requires one party to pay for, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the other party, the amount required to be paid, reimbursed, or contributed by the first party will be reduced by the amount of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense.

## 12. ELECTRONIC ORDERS.



If any part of the purchase and sale of Products or Services, including Customer's NCNR acknowledgment or demand forecast, uses EDI, Customer's internal portal, third party portal or any other electronic means ("Electronic Purchase Order"), this Agreement will continue to apply to the purchase and sale of Products and Services between Customer and Hygiena. The customer's acceptance of Hygiena's acknowledgment request or Hygiena's specification of details with respect to Electronic Purchase Orders via writing, email or other EDI is binding on Customer.

### **13. COMPLIANCE WITH LAW.**

Each party must comply with all state, federal and local laws, and regulations applicable to its performance hereunder.

### **14. GOVERNING LAW.**

The laws of Australia govern this Agreement, and each party irrevocably submits to the jurisdiction of the courts of that place and courts competent to hear appeals from those courts.



## Changes to the terms and conditions.

We reserve the right to update these terms and conditions at any time. This section offers a history of changes to the terms and conditions.

Version	Date
Version 1.0	November 2022
Version 1.1	January 2023