



RESELLER ACCOUNT APPLICATION & INTERNET ACCESS

BUSINESS INFORMATION			
Organisation Type	Registered Company " Sole Trader " Partnership " Trust " Club/Charity " Institution " Government " Other "	Date/Place of Incorporation	
Legal Entity Name		Registered company address	
Trading Entity Name		Parent Company	
Name of Trust (if acting as trustee)		Delivery address	
ABN		Tenancy	Owned/Mortgage " Leased "
ACN		How long at current address?	
Date your business started		E-mail (for all correspondence)	
Phone		Fax	
Name and Address of Business Bank		Credit Account Requested	C.O.D " (<\$10k per month) 10 Day " (>\$10k per month) 30 Day EOM " (>\$50k per month)
Swift address		Online Administrator/ Contact	
Account Name		Administrator Email	
BSB		Requested User Password	
Account number		Delivery Instructions	Part Ship " No Part Ship "
OWNER INFORMATION -COMPANY DIRECTORS/PARTNERS/PROPRIETORS			
Director #1 name/ D.O.B		Residential Address	
Phone		Drivers Licence No.	
Director #2 name/ D.O.B		Residential Address	
Phone		Drivers Licence No.	
Director #3 name/ D.O.B		Residential Address	
Phone		Drivers Licence No.	

MARKET INFORMATION

Principal Products Purchased	OEM` PC Systems` Peripherals` Consumables` Networking` Infrastructure (Server/Storage)` Telecommunications` Software` Cloud Services` Solutions` Services` Other`		
Which markets does your business operate within	Corporate` SME Market` Consumer` OEM Wholesale` Government` Education` Web Business` Financial Services` Telecommunications` Other`		
End User Focus Size	<250` 250-2000` 2000+`	What % of your business in Annuity based?	<25%` 25-50%` 50%+`

BUSINESS/TRADE REFERENCES

Supplier Name		Supplier Name	
Contact Name		Contact Name	
Phone		Phone	
Email		Email	
Supplier Name		Supplier Name	
Contact Name		Contact Name	
Phone		Phone	
Email		Email	

FINANCIAL DETAILS

Current Year turnover \$pa		Est. Value of Current Assets \$	
Previous Year turnover \$pa		Est. Value of Current Liabilities \$	
Have you or any of your directors ever been registered under any part of the Bankruptcy Act (1966), been under any special financial arrangements or had legal proceedings commenced against you or any of your directors for payment of debts?			Yes` (attach all details to this application) No`

PRIVACY

You have read and understood our Privacy Policy and consent to us using your personal information you provide to us.	Yes` No`	Would you like to be on our mailing list? Yes` No` Preferred email address	
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DECLARATION

To: Dicker Data Limited (ABN 95 000 969 362 ("Dicker Data", or "us" or "we")

You expressly represent to DICKER DATA that you are a reseller and are authorised to sign this Application for an account on behalf of the Customer. You declare that the information in this Application is true and correct to the best of your knowledge. You acknowledge that this Application includes a Guarantee and Indemnity, Terms and Conditions (which includes a purchase monies securities interest PMSI provision) and Privacy Statement and these documents govern the account On behalf of the Customer, you acknowledge that: (a) first use by it of the account will constitute its acceptance of and agreement to those Terms and Conditions and Privacy Statement; and (b) this Application is subject to the Guarantee and Indemnity being granted in favour of DICKER DATA (unless DICKER DATA agrees otherwise). You declare that this account is wholly for business purposes. You have read and agree to the collection, uses and disclosures of information about me/us, the Customer and other persons, as set out in the Guarantee and Indemnity, Terms and Conditions and Privacy Statement.

Name		Position	
Signature		Date	

Dicker Data Limited
ABN 95 000 969 362

230 Captain Cook Drive
Kurnell, NSW, 2231

Phone +612 9589 8400/ Freecall 1800 688 586
Fax +612 9525 0481/ Freefax 1800 688 486
Email: accounts@dickerdata.com.au

GUARANTEE

In consideration of DICKER DATA LTD ("Company") granting credit to the Customer described in the Schedule below:

I/We, ("Guarantor")

of ("Guarantor's address")("Guarantor"),
jointly and individually:

1. guarantee to the Company the Customer's performance of its obligations including the payment of all amounts which the Customer is required to pay to the Company at any time ("Guarantee"); and
2. indemnify the Company and hold the Company harmless from and against any loss (including damages and all of the Company's legal costs and expenses) or liability however arising, whether direct or indirect, in respect of the Company's granting credit to the Customer at any time ("Indemnity").

I/We agree that:

- (a) both the Guarantee and the Indemnity are unconditional, continuing and irrevocable;
- (b) the Company requires payment from me/us personally quite separate from the Customer's liability and I/we accept personal responsibility;
- (c) this Guarantee and Indemnity is in addition to any other rights which the Company may have against the Customer or any other person and the Company is entitled to recover payment from or require the performance of any undertaking or obligation by me/us without first taking any steps or proceedings against the Customer or any other person;
- (d) I/we are personally liable for not only the debt or interest payable by the Customer to the Company but also for the Company's expenses including, for example, its legal costs (at the normal rate paid by the Company) and debt collector's expenses;
- (e) this Guarantee and Indemnity is a principal obligation and shall not be treated as ancillary or collateral to any other obligation and this Guarantee and Indemnity shall be enforceable even if any obligation between the Company and the Customer is or becomes wholly or partially unenforceable for any reason;
- (f) my/our liability under this Guarantee and Indemnity is not affected by any time or indulgence granted by the Company to the Customer, the release of any security or guarantee held by the Company, any variation in arrangements between the Company and the Customer, the full or part payment of monies owing by the Customer to the Company, any waiver, delay, neglect or omission by the Company in exercising its rights, my/our bankruptcy, death or winding up or the operation of law.
- (g) if any payment to the Company by or on behalf of the Customer is or becomes void for any reason my/our liability in respect of that payment will not be discharged and will be treated as if the payment was never made;
- (h) I/we may not set off any amounts due by the Company to the Customer to reduce our liability to the Company;
- (i) if the Customer becomes bankrupt or goes into liquidation, I/we will not prove in such bankruptcy or liquidation in competition with the Company except with the Company's prior consent;
- (j) the Company is not required to notify me/us of any default by the Customer;
- (k) any defence the Customer may have against the Company from time to time will not also be available to me/us;
- (l) (if there is more than one of us), we are bound by the terms of this Guarantee and Indemnity jointly and severally; and
- (m) (if there is more than one of us), this Guarantee and Indemnity is effective even if is not signed by all of us. I/We further agree:
- (n) to freely charge all of my/our real and personal assets and agree to execute on demand a mortgage in registrable form in favour of the Company as mortgagee over all or any part of my/our real estate containing such covenants (including the covenants in Memorandum AA776971D registered with the Department of Lands NSW) as the Company may require; and
- (o) that the obligations of the Guarantor under this Guarantee and Indemnity will remain in effect and will not be diminished or impaired, notwithstanding:
 - (i) any withdrawal of any demand by the Company, for payment or performance by Customer, of any Obligations or for payment under this Guarantee and Indemnity;
 - (ii) any amendment, extension, modification or waiver of any Obligations or of any documents relating to them; and
- (p) to the Company placing a caveat on the title to any real estate I/we own in respect of gross debt and the Guarantor's right to be subrogated in respect thereof shall not arise until the Company shall have received the full amount of the Customer's indebtedness to it.

I/We irrevocably appoint the Company my/our attorney for the purpose of doing either in its own name or in its capacity as attorney all such acts, matters and things as the Company from time to time considers necessary or expedient for the purpose of effecting all of the powers and authorities contained in this Guarantee and Indemnity.

This Guarantee and Indemnity is governed by the laws of New South Wales and I/we agree to submit to the non-exclusive jurisdiction of the Courts of New South Wales.

“Including” and other similar words are not words of limitation.

For the purpose of this Guarantee, “Obligations” means the obligations and liabilities of the Customer under or in connection with the attached terms and conditions, subject to the limitations described therein.

I/We acknowledge that I am /we are under no legal compulsion to sign this Guarantee and Indemnity.

Customer Name		ABN	
Guarantor Name		Witness Name	
Guarantor Address		Witness Address	
Guarantor Signature		Witness Signature	
Date		Date	

TERMS AND CONDITIONS

These are the terms and conditions on which DICKER DATA LTD (“we” or “us” or “our”) is willing to trade with you. Any variation to these terms and conditions must be in writing and signed by an authorised officer of DICKER DATA LTD. You agree that these terms and conditions create a PMSI in the product (and its proceeds) supplied presently and in the future by us to you.

1. Scope, Product & Price

- (a) These terms and conditions includes the provisions relating to your use of our product (as defined below). We have alliance relationships with Third-Party Suppliers. As part of many such arrangements we are able to resell the Third-Party Products and may receive discounts or rebates in connection from the Third-Party Suppliers with the sale of such Third-Party Products. These terms and conditions are in addition to any terms and conditions that apply to a Third-Party Product which may be provided to you or made otherwise available on the applicable Third-Party Supplier’s website. Third-Party Suppliers are independent contractors and are not employees, agents, subcontractors or authorized representatives, partners or joint ventures of us. You will ensure your agreement with customers contains terms no less favourable than those outlined in these terms and conditions and specifically includes those terms set out in Schedule 2 (Specific Customer Terms).
- (b) You may offer to purchase from us certain products, being: (i) our products, which may include the provision of equipment or a cloud environment (“our product”); and (ii) products or services (including data migration services and provision of a cloud environment) provided by Third Party Suppliers (“collectively, “the products”).
- (c) The price and description of the products you may offer to purchase from us is described in our price list. We may change the products and price list at any time without prior notice. We reserve the right to replace any of the products with products that are substantially similar if for any reason the products become unavailable. Any description of our product including any specifications, illustrations, drawings, data, dimensions and weights is approximate and is given by way of identification only. The use of that description does not constitute a sale by description and does not form part of our contract with you unless we say so in writing. You are responsible for ensuring that the products ordered is suitable for its intended use by you and we are not liable to you for any product you order which is unsuitable for your intended use. All pricing of the products will be in accordance with our price list and we reserve the right to invoice you in accordance with that price list despite any such unintended errors on our website or data entry errors.
- (d) If we provide you with a quotation, it is valid only for the period specified in the quotation or 30 days, whichever is the lesser, and only in respect of the matters set out in the quotation.

2. Subscription, consumption and multi-year contract billing

The products defined in Clause 1(a) and 1(b) may include products and services (including Cloud services) that utilize various billing methods including subscription, consumption and multi-year contract billings, including but not limited to:

- (a) Subscription billing for products and services delivered over an agreed period (including multiple years), with invoicing spread across one or more periods within the delivery period.
- (b) Consumption billing for services delivered over an agreed period (including multiple years), with invoicing based on usage levels of products and services within an agreed billing frequency.

If you purchase any subscription, consumption or multi-year contract product or service from us in accordance with clause 2, you agree that you:

- i) must act in accordance with Clause 11 relating to Third-Party Products and Services.
- ii) must not misrepresent or misreport in any way, usage levels through either regular reporting or as the result of an audit.

In the event that you breach any of these terms and conditions, and without limiting any other rights we may have with respect to your default, you agree that:

- iii) we may, in our discretion, cease supplying the services to you, by either suspending your account or terminating this supply agreement with you; and
- iv) if we cease supplying the services to you, you must assign to us all of your rights and obligations under any End User Agreements you have entered into with End Users in accordance with your End-User Agreements.

3. Payment

If you have a pre-approved account limit with us, our terms are strictly in accordance with our payment terms as separately agreed with you in writing from time to time, or where there is no separate agreement, 10 days from the date of invoice. If you do not have a pre-approved account limit, payment in advance by cash, cheque, EFT, Bpay or credit card is required and must be paid within 48 hours of placing an order (failing which, we will be entitled to cancel the order without notice to you). Payments by cheque will not be considered received by us until the cheque is cleared by our bank. If any payment by you is dishonoured, you must pay us an additional account processing fee of \$40.00.

These terms of payment also apply to any work we perform or service we provided to you on request which is separate from your purchase of product.

An account processing fee will be charged, unless otherwise agreed, for payments made by credit card, up to 2% for payments made by Visa, Mastercard or Moneytech card and 3% for payments made by American Express.

You agree to pay us notwithstanding not having received payment by your end-users or customers. We may require either a deposit or funds held in escrow, to be applied against outstanding liabilities. This clause survives termination or expiry of these terms and conditions.

4. Account Limit

Normally, we allow you to purchase and continue to purchase our product as long as the total of your account does not exceed your pre-approved account limit (if any) and you have provided us with three (3) satisfactory written trade references and/or a satisfactory trade or status report from a credit rating agency acceptable to us. We may require fresh references/reports from time to time and additional information if you apply to increase your account limit.

If we perform work or provide a service to you separate from your purchase of product, our fee for providing such work or service is added to your account.

You agree that you will, if we request, also provide us further supporting documentation which may include (but is not limited to) any or all of the following:

- evidence that you have been incorporated for at least 12 months; and
- a copy of your Financial Statements (which must not be more than 12 months old).

In no circumstances are we obliged to accept any application for an increase in the limit of your account and we are not obliged to give you reasons for our decision.

If any account is not settled within our trading terms, you agree that, in addition to any other right we may have, we may suspend all sales and delivery of our product to you or close your account with us.

You acknowledge that we may decline your application to purchase our products if we are advised by our insurers that they will not grant us appropriate cover in relation to you.

5. Overdue Accounts

You must pay for the product by each Due Date notwithstanding not having received payment by your end-users or customers. Any account which is not settled by the Due Date will attract a late payment fee equal to 1% of your unpaid account, charged monthly until your account is paid in full. You agree that this late payment fee is a genuine pre-estimate of the loss we would suffer if you do not pay for the product by the Due Date. Notwithstanding your acknowledgement under clause 25, if the arrangements provided under this clause would otherwise constitute a credit contract as defined in the Consumer Credit Code the time for payment of any overdue account is limited to a total period not more than 62 days from the date of invoice. Nothing in this clause imposes an obligation on us to extend our payment terms to you for any period at all and we will not dispatch any products nor accept any further orders you place with us if your account is outstanding beyond 60 days from the date of invoice. You agree that any discounts, rebates or other concessions are lost if payment is not made in time. If you are in breach of any of our terms and conditions you agree that you are also responsible for all our expenses of any kind including our legal costs on a solicitor client basis and any commission or other expense incurred by any debt collection agency we retain to recover the monies you owe us. We may commence legal proceedings against you for the recovery of any account which is overdue by 60 days or more from the date of invoice.

In this clause, "Due Date" means the date specified in clause 3 on or by which you must pay your account with us.

6. Taxes and Government Charges

Our prices are shown exclusive of all taxes, (including GST). Tax is payable in addition to the price of our product or service and must be paid by you at the same time as you pay for the products. We will give you a tax invoice compliant with the Law. You agree to reimburse and hold us harmless from any deficiency (including penalties and interest) relating to taxes that are your responsibility.

7. Orders

All communications between you and us including all purchase orders must be in writing (which includes by e-mail). Verbal orders must be confirmed in writing within 24 hours and will be considered as accepted by us on delivery.

Unless we agree special arrangements, such as an authorisation code, we assume any order received from anyone in your employ has been placed with your authority and is binding on you.

No quote is binding on us unless we have prepared and accepted a written confirmation of order.

If you make a change to an order or your delivery details change which cause a delivery delay or you cancel an order less than 14 days prior to a scheduled delivery, you will pay to us a fee equal to 5% of the list price of any product affected. If you cancel an order for any product not included in our current price list, you may be subject to an additional charge. If you cancel an order or refuse to accept all or any of our product in an order other than in circumstances permitted by these terms and conditions, you will be liable for any resulting damage or loss suffered by us. If the product has been or is in the process of being manufactured or produced specifically for you, you will pay to us as liquidated damages the full price of the products and any costs incurred by us (including, without limitation, any tax, including GST) less the current scrap value of the product as determined by us.

8. **Delivery**

Delivery takes place on the earlier of the time our product passes into your or your agent's exclusive physical control, when you collect the product or arrange for their collection from us or when ownership of our product has passed to you.

We will be entitled to cancel orders without notice if delivery of order cannot be taken within 48 hours of placing the order, unless otherwise agreed by us. Our prices are shown exclusive of delivery costs. Delivery costs are payable in addition to the price of our product and must be paid by you at the same time as you pay for our product.

Unless we make other arrangements with you, our product is delivered direct to your business address described in your account. If you request that we deliver our product to another address, we may charge you an additional fee.

Any date for delivery of our product indicated by us is an estimated date for delivery only. We are under no liability for any loss or damage, however it arises, and you may not treat the relevant purchase order or these terms and conditions as terminated, if the product is not delivered by that date.

We reserve the right to deliver any products you order from us by instalment and each instalment is sold to you under a separate contract between you and us. Failure by us to deliver any instalment will not entitle you to cancel the balance of your order. In the event you are in default of these terms and conditions in respect of any instalment, we may elect to treat your default as a breach in respect of each other instalment.

We may charge you storage, handling and re-delivery fees if you are unable to take delivery of our product at the time we deliver our product to you.

9. **Risk**

At all times from the date of delivery, our product is at your risk of loss or damage and you are responsible for its safe custody. You must keep our product insured and promptly provide us with evidence of such insurance and its currency as and when requested by us from time to time.

10. **Ownership**

You do not own any of our product in your possession until all of our product you have purchased from us at any time and all other amounts owing by you to us on any account have been paid for in full. Until you have given us full payment, you promise to store and deal with our product in a way that it is clearly identifiable as ours. You grant us an irrevocable licence to enter your premises on any business day to inspect our product in your possession and your books or records regarding our product. If you wish, you may promote and on-sell our product in the ordinary course of business even if ownership of our product has not passed to you. If requested by Dicker Data, you will hold the proceeds of sale in trust and not by way of security, for and as agent for us in a separate account, you will pay the proceeds to us as soon as you receive them and we have the right to trace and claim such proceeds. You have no right to bind us to any liability to any third party by contract or otherwise. If you use our product in some manufacturing or construction process of your own or some third party, you will hold such part of the proceeds as relates to our product in trust for us. Such part shall be deemed to equal in dollar terms the amount payable or owing by you to us at the time of the receipt of such proceeds. You will also keep separate records and clearly identify in your books your use of our product in such manufacturing or construction process.

11. **Third Party Products and Services**

- (a) You agree that the terms of use for any Third-Party Products shall exclusively be set out by the applicable Third-Party Supplier. While we may provide a facilitation role (and nothing more than that), you agree that we are not responsible, nor liable, for any Third-Party Products.
- (b) Notwithstanding anything else, your licence to use any Third-Party Products is provided by the Third-Party Supplier and not us, and is subject to any terms and conditions as made available by the Third-Party Supplier, including, but not limited to, licenses, policies, warranties, ownership of intellectual property, privacy, scope of permitted use and other documentation.
- (c) We make no representation or commitment, and shall have no liability or obligation whatsoever, in relation to the content or use of, or correspondence or contract you have with, any such Third-Party Products, or any transactions completed, and any contract entered into by you with such third party. You acknowledge that we are not an employee, franchisee, partner or joint venture of Third Party Suppliers.

- (d) We do not endorse or approve any Third-Party Products. It is your sole responsibility to determine that specific products or services, introduced or used by you meets the needs of your business and/or are suitable for the purposes for which they are used.
- (e) You acknowledge that Third Party Suppliers are entitled, as a Third-Party beneficiary of these terms and conditions, with the authority to independently enforce its provisions insofar as it relates to the Third-Party Products and / or impacts the Third-Party Supplier.

12. Assignment

You must not assign any rights or benefits under these terms and conditions unless you have obtained our prior written consent. We may assign our rights and benefits under these terms and conditions at any time without notice.

13. Recovery

If at any time you owe us money on any account in excess of our trading terms then in addition to any other rights we have you agree we may enter any premises owned, possessed or controlled by you where our product is stored and remove our product and re-sell all or any of them. We are not liable to you if we take such action. If we request you will obtain a landlord's waiver in a form acceptable to us.

14. Returns

When you take delivery of our product, you must inspect it immediately. You must report to us in writing any damage, suspected defects or incorrect supply which must be received by us within 7 days of delivery otherwise we may refuse any claim you make. If our product is damaged when we deliver it to you we may accept its return and replace it with an equivalent product or credit you with the price paid, at our option. You must comply with any reporting requirements imposed by either us or a Third-Party Supplier.

To return any product to us, you must obtain a Return Material Authorisation Number (RMA#) from us by contacting ras@dickerdata.com.au.

We will accept the return of our product if our product is not in accordance with your order, your proof of purchase is returned, and it is returned to us in its original condition within 14 days of the RMA# being issued by us. You are responsible for the cost of returning the product to us.

If you wish to return to us our product which we have correctly supplied to order you must let us know within 7 days of the date of delivery. If we agree to the return of such product we may charge you a handling or re-stocking fee of between \$50.00 per product or 10% of the price of product returned plus any delivery costs. If we accept the return of product which was specifically produced to your specifications or has been damaged or altered by you, we will not credit you with the price paid for it.

15. Claims

If you have a dispute with us, you must notify our credit department in writing of your dispute within seven days of the receipt of our invoice. You may not set off against or deduct from the price of product you have ordered from us any money you claim we owe you. If you do not dispute an invoice within seven days of receipt of the invoice you will be deemed to have accepted the amounts payable in that invoice and waived your right to dispute any amount. All undisputed amounts must be paid by the Due Date (as defined in clause 5). You agree that you shall make no claim against us or Third-Party Supplier for any delay in delivery or any damaged the products delivered to you as a direct or indirect result of events beyond our control.

16. Replacement or Money Back

The products come with guarantees that cannot be excluded under the *Commonwealth Competition and Consumer Act 2010* (Cth) ("ACL"). Nothing in these terms and conditions excludes, restricts or modifies any condition, warranty, right or remedy conferred on you by the ACL or any other applicable Law that cannot be excluded, restricted or modified by agreement. Subject to those rights that cannot be excluded under the ACL, our liability (and any Third-Party Supplier's liability) for a breach of a non-excludable condition or warranty is limited, at our option, to:

- (a) in the case of goods, any one or more of the replacement of the goods or the supply of equivalent goods; the repair of the goods; the payment of the cost of replacing the goods or of acquiring equivalent goods; or the payment of the cost of having the goods repaired; or
- (b) in the case of services, any one of the supplying of the services again; or the payment of the cost of having the services supplied again.

Subject to the foregoing, to the full extent of the law all other express or implied warranties or guarantees are excluded. Warranties do not apply if the product has received maltreatment, inattention or interference or the product has not been used in accordance with any performance ratings or care instructions. In no circumstances are we liable for loss of profit, loss of data, loss of business or contract or any special, indirect or consequential loss, even if you advise us of any special circumstances or such loss was reasonably foreseeable.

17. **Indemnity**

You must defend, indemnify and hold harmless us and our Third Party Suppliers against any claims, demands, suits, damages, losses, liabilities, fines, penalties, judgments or costs or whatsoever nature (including reasonable legal fees) arising out of or connected with a breach of these terms and conditions; a violation of any applicable Law including but not limited to import or export laws; asserted of actual infringement of any intellectual property rights; personal injury, death or property damage; unlawful, unfair or deceptive trade practice and any other acts or omissions by you or your contractors.

18. **Conflict of Terms**

These terms and conditions override your terms and conditions, including any terms and conditions attached to any purchase order (even if issued after these terms and conditions). You acknowledge and agree any purchase order (and any terms and conditions attached to any purchase order) issued by you has no effect and is for administrative purposes only. To the extent of any discrepancy between these terms and conditions and any other (including your own) terms and conditions these terms and conditions prevail.

19. **Minimum Purchase**

You acknowledge that we may impose a minimum quantity for individual purchases as a condition of sale. We may impose a processing fee for approved purchases below the minimum quantity.

20. **Your Relationship with Us**

Nothing in these terms and conditions creates any relationship of employment, agency or partnership between you and us. To the maximum extent permitted by Law, you must not make any warranty or representation on behalf of us or a Third-Party Supplier. The benefit of these terms and conditions is held by us on our own behalf and on trust for our Third-Party Suppliers.

21. **Intellectual Property**

You agree to protect the intellectual property rights of the products and cooperate with us and our Third-Party Suppliers in their efforts to protect their intellectual property rights. You must notify us of any suspected or known breach or breaches of intellectual property rights as soon as is practicably possible after becoming aware of the breach or breaches. You must provide us or the Third-Party Supplier (as applicable) control of any proceedings and provide us or the Third-Party Supplier with all reasonable assistance in the defence of any claim the products infringe any third party intellectual property or other rights. These terms and conditions do not give you any intellectual property rights in the products. If we source, produce or manufacture any product samples or prototypes specifically for you, you do not acquire any intellectual property rights in such samples and prototypes. Your details and information that you provide us about yourself may be retained by us on our database and used by us or Third-Party Suppliers. You have no rights in that database. We may use such database in the conduct of our business, subject to privacy and other relevant Laws.

We are not liable for any infringement or unauthorised use of any intellectual property rights arising from these terms and conditions. If any dispute or claim is made in respect of any infringement or unauthorised use of intellectual property rights we may terminate these terms and conditions by notice to you and without liability to you or any other person.

In these terms and conditions, intellectual property rights include the full benefit of any rights in any copyright, trademark, registered design, patent, trade and business names, know-how, inventions, improvements, discoveries and confidential processes and includes without limitation artistic works, images, illustrations and photographs and any adaptation or concept relating to it.

22. **Confidential Information**

You must not directly or indirectly disclose Confidential Information to any other person. You must take all reasonable steps to secure and keep secure the Confidential Information coming into your possession.

For the purposes of this clause, "**Confidential Information**" includes, without limitation, our quotations and our and our Third-Party Suppliers' non-public information about current or future products and services, business plans, market data, financial; data, sales information and any other information that the party identifies as confidential, or which you should reasonably understand to be confidential. The obligations of confidentiality under this clause do not apply to information that is generally available to the public (other than by breach of these terms and conditions) or is required to be disclosed by any applicable Law.

23. **Governing Law**

These terms and conditions are governed by, and you agree to submit to, the laws applicable in the State of New South Wales, Australia and the *Commonwealth Personal Property Securities Act 2009* (PPSA). You submit to the non-exclusive jurisdiction of the courts of New South Wales.

24. Whole Agreement

Subject to clause 4, these terms and conditions form the entire agreement on which we are willing to trade with you and all or any previous agreements or understandings we may have had with you are superseded by these terms and conditions. We may vary these terms and conditions at any time, either in writing or in or by way of a general notification on our website. All transactions after the date specified in such notice will be subject to the altered terms and conditions. If you continue to trade with us after the date such alterations become effective you will be deemed to have agreed to the altered terms and conditions.

25. Your Obligations

You acknowledge that:

- (a) you are not an associate or related body corporate or related party or related entity of ours (as such terms are defined in the Corporations Act 2001); and
- (b) the Consumer Credit Code does not apply to these terms and conditions.

It is your responsibility to ensure that the contact details we have about you including your address details are correct and up to date at all times. You must promptly notify us of any change in your contact details.

If, at any time:

- (c) you believe that you may not or may be unable to perform or comply with your obligations under these terms and conditions;
- (d) you are unable to pay your accounts as they fall due for payment;
- (e) you cease or threatens to cease to carry on business or are unable to pay your debts as they fall due.
- (f) a cheque or bill of exchange received from you is dishonoured;
- (g) you are or become insolvent or you have an administrator appointed;
- (h) your account is overdue and is not settled within our trading terms; or
- (i) there is a change or a change is proposed to your shareholding, shareholders or directors,

You agree that:

- (j) you will immediately notify us that one or more of the above notifiable events has occurred and you will keep us notified on a monthly basis until such notifiable event no longer exists;
- (k) we have no obligation and will cease to deliver to you any product you have purchased while a notifiable event exists;
- (l) we may close your account with us, and/or terminate any agreement relating to the supply of product or services;
- (m) we may request payment in advance for all products you have ordered from us; and
- (n) we have no obligation to respond to any offer you make to purchase any of our product while a notifiable event exists.

For the purpose of these terms and conditions, you are insolvent if:

- (o) a receiver or receiver and manager or an agent for a mortgagee in possession has been appointed over all of your assets and undertakings;
- (p) you have passed an effective resolution for your voluntary winding-up or you have committed an act of bankruptcy;
- (q) an order has been made by a Court of competent jurisdiction for you to be wound up;
- (r) a compromise arrangement (excluding a voluntary administration) has been made legally binding on you and your creditors;
- (s) you have presented a debtor's petition and it has been accepted by the Registrar in Bankruptcy;
- (t) you have entered into a composition, deed of assignment or deed of arrangement under Part X of the Bankruptcy Act (or equivalent) with your creditors; or
- (u) a legally binding sequestration order has been made against your estate.

26. PMSI

You agree that these terms and conditions create a PMSI in the product (and their proceeds) supplied presently and in the future by us to you.

You agree to do all things necessary and execute all documents reasonably required by us to register the PMSI granted by you under these terms and conditions and to ensure that we acquire a perfected security interest in the product under the PPSA.

You will, upon demand, pay all of our expenses and legal costs (on a solicitor/agent/client basis) in relation to or in connection with the registration of the PMSI or any other security interest and all other costs associated with protection and enforcement of the PMSI or any other security interest created by these terms and conditions or by undertaking an audit under the provisions of the PPSA, or the

repossession of the Product the subject of these terms and conditions or the exercise, enforcement or preservation of any right or interest under these terms and conditions or any contract that we have with you.

This PMSI does not lose its priority as a result of the renewal, refinance, consolidation or restructure of the subject matter of these terms and conditions and any purchase money obligations.

Until ownership of the product passes to you, you waive your rights under the following provisions of the PPSA, to the maximum extent that it is permitted by law, to:

- receive a notice of intention to remove an accession (s.95);
- receive a notice that we have determined to enforce our security interest in accordance with land law (s118);
- receive a notice of enforcement action against liquid assets;
- receive a notice of disposal of the product by way of us purchasing the product from us (s129);
- receive a notice of disposal of the product (s130);
- receive a statement of account following disposal of the product (s132(2));
- receive a statement of account every 6 months where there has been no disposal of the product (s152(4));
- receive notice of retention of the product by us (s135(2));
- object to any proposal by us to either retain and dispose of the product (s137(3));
- redeem the product before we dispose of it (s142);
- reinstate the security agreement (s143); and
- receive any verification statement in relation to any registration event to which you are a party (s157(1) and 157(3)).

To the extent permitted by the PPSA, these terms and conditions exclude any provisions of the PPSA which may be excluded in our discretion and which would otherwise confer rights on you.

You further agree that where we have rights in addition to those under Part 4 of the PPSA, those rights shall continue to apply.

Your right to possession of goods still owned by us under these terms and conditions shall cease if:

- (a) you being an individual, commit an act of bankruptcy, or,
- (b) you being a company, circumstances arise where a receiver, manager, administrator or controller becomes entitled to take possession of any of your assets, any proceedings are instituted for your winding up, or you enter into a Deed of Company Arrangement, or
- (c) you cease or threaten to cease conducting business in the normal manner or apply for deregistration or receive a deregistration notice, or
- (d) any cheque you provide to us is dishonoured for payment, or
- (e) you fail to comply with any demand for payment issued by us, or
- (f) you breach any of the terms and conditions contained herein and/or are in default of any other agreement between us and you.

You agree that we are entitled to enter any premises where the product supplied by us and still unpaid for is located and to repossess, remove and sell such product. You agree to indemnify and keep us indemnified in respect of any claims, actions and costs that may arise against us in relation to the removal, repossession and sale of the product pursuant to these terms and conditions including any claims brought by third parties.

You agree that repossession and retention of the product pursuant to the PPSA will only satisfy so much of the monies which may become payable to us by you, as is equivalent to our estimation of the market value of the product as it is at the date of repossession and the repossession and retention will immediately extinguish any rights for interest you have on the product value of product recovered.

Until ownership of the product passes, you must not give us a written demand or allow any other person to give us a written demand requiring us to register a financing change statement under the PPSA or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA.

You agree not to change your name or undertake any changes to any documents that we have registered, require to be registered or are capable of being registered without our prior written consent.

27. Fitness for Purpose

To the maximum extent permitted by law, you agree that you do not rely on our skill or judgement in relation to the suitability of any goods for a particular purpose. Any advice, recommendation, information or assistance provided by us is provided without any liability whatsoever.

28. Privacy and other Laws

- (a) Our Privacy Policy, available on our website or upon request to us, forms part of these terms and conditions.
- (b) You agree to comply with all Laws, including all export and import control laws and the *Privacy Act 1988* (Cth) and the Australian Privacy Principles, the *Spam Act 2003* (Cth) and the *Do Not Call Register Act 2006* (Cth). You must obtain all consents and rights necessary for us and/or our Third-Party Suppliers to provide the products.
- (c) In accordance with the Privacy Policy, you agree that we may use or disclose information to third parties (such as Third Party Suppliers) for the purpose of providing the product, providing information about product; sending information on our services; performing our administrative and marketing operations; complying with legislative and regulatory requirements or as otherwise permitted or authorised by Law; considering any other application you may make to us; managing our rights and obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes; conducting market research or customer satisfaction research; developing, establishing and administering arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of our products; and developing and identifying products and services that may interest you.
- (d) Your use of Third Party Products may also be subject to the privacy policies of Third Party Suppliers.

29. Charge

You hereby charge all property, both equitable and legal, present or future of yours and the Company/Trustee Company/Trust/Sole Trader/Partnership (as applicable), in respect of any monies that may hereinafter be owing to us under this credit application and terms and conditions by you or otherwise. You hereby authorise us or our solicitors to execute any consent form as your attorney for the purpose of registering a mortgage or caveat over any real property owned by you and any of the Company/Trustee Company/ Trust/ Sole Trader/ Partnership (as applicable) at any time, or to register this charge over your assets and the Company/ Trustee Company/Trust/Sole Trader/Partnership (as applicable) with the Australian Securities and Investments Commission or any other applicable regulatory body. The costs and stamp duty payable on the mortgage or caveat are payable by you.

30. Trust and Trustees

Where you are a trustee:

- (a) You agree to produce a stamped copy of the trust deed (with all amendments) if and when requested by us.
- (b) You warrant that you have full power and authority to enter into this agreement on behalf of the trust and that the trust shall be bound by these terms and conditions both personally and as trustee, irrespective of whether or not you or the trust disclose to us that if you are a trustee at the time of entering into any credit agreement with us.

31. General

We may in our sole discretion assign, subcontract or sub licence any or all of our obligations under these terms and conditions from time to time. Any time, indulgence, waiver or non-exercise by us of any of these terms and conditions shall not affect any of our rights under these terms and conditions nor shall it be deemed a waiver by us of any provision of these terms and conditions or subsequent breach of these terms and conditions.

If any term or condition is found to be invalid, illegal or otherwise unenforceable, it will be deemed modified to the extent necessary in the court's opinion to render it enforceable, and the rights and obligations of the parties will be construed and enforced accordingly, preserving, to the maximum extent possible, the intent of the parties.

32. Interpretation

In these terms and conditions unless otherwise indicated by the context: (i) reference to a party to a document includes that party's successors and permitted assigns; (ii) "including" and other similar words are not words of limitation; (iii) an agreement, deed, covenant, representation or warranty on the part of two or more persons binds them jointly and severally; (iv) general words following words describing a particular class or category are not restricted to that class or category; (v) "Law" means any Commonwealth or Australian state legislation regulations and the general law (all as amended or replaced from time to time) and includes in particular the *Commonwealth Competition and Consumer Act 2010* (Cth) the *Personal Property Securities Act 2009* (Cth); (vi) "PPSA" means *Personal Property Securities Act 2009* (Cth); "Purchase Monies Securities Interest" or "PMSI" has the meaning given in section 14 of the PPSA; (vii) "Corporations Act 2001" means the Corporation Act 2001 (Cth); (viii) "Privacy Statement" means our privacy statement attached as Schedule 1; (viii) "Third Party Product" means software, products and services that are provided by third parties or interoperate with our product and/or that may be identified as a third party product or services; and (ix) "Third Party Suppliers" means the suppliers or vendors of the Third Party Products.

SCHEDULE 1 - PRIVACY STATEMENT

DICKER DATA LTD trading as Dicker Data (“we” or “us” or “our”) respects your privacy and we are committed to the protection of personal information. We follow the National Privacy Principles in the Privacy Act 1988 (Cth).

The purpose of this Privacy Statement is to let you know how we collect, use and disclose personal information.

Collection

We collect personal information so that we can provide you with our services and products and to manage our activities. We only collect personal information that is relevant and where necessary.

The type of personal information we collect will depend upon the reason for its collection. If you are interested in our products, the type of information we collect will include financial details and credit and trade references.

We collect personal information about you in a number of ways including:

- directly from you, such as when you:
 - contact us about our services or products;
 - fill in an account application form;
 - subscribe to our newsletters or mailing lists;
 - place an order for our products;
 - enter your personal details on our website (for example during registration or application for services, products or employment);
 - provide information by phone or in documents sent by fax or email;
 - enter promotions, competitions or giveaways; or
 - make a payment to us;
- from organisations which we might be working together with when providing you with services or products;
- from your representatives including executors and attorneys;
- from publicly available sources of information;
- from credit-reporting and fraud-checking agencies and credit providers for credit related purposes such as credit worthiness, credit rating, credit provision and financing;
- from our own records of your dealings with us; or
- when legally required to do so.

Where reasonable and practicable, we collect personal information directly from you rather than a third party. When we collect personal information, we collect it in a way that is lawful, fair and not intrusive.

We do not collect sensitive information about you without your consent.

Use & Disclosure

Personal information which we have collected for a particular purpose will not be used for any other purpose unless that purpose is related to the main purpose for which we collected the information and it is reasonable to expect us to use or disclose the information for that other purpose.

Personal information which we collect may be used by us:

- to identify you;
- in providing services or products to you and the administration and management of those services and products;
- to provide you with information about our services and products;
- to develop and improve our services to you;
- in undertaking risk assessment and management; or
- in gathering data and disclosing data to third parties such as:
 - insurance brokers and insurers;
 - credit reporting agencies;
 - financial institutions including our own bankers;
 - our professional advisors, including our accountants, auditors and lawyers;
 - service providers; and

industry groups having a legitimate reason to receive such information, as necessary from time to time for our organisation's functions.

If you provide us with personally identifiable information, you may receive from time to time, telephone calls, emails or letters containing information about us. You agree to receiving emails and letters from us including information not only on the areas of interest you have indicated but all types of news and information on our services and products. If you do not want to receive them, please contact us. You may be asked to indicate your preference to receiving promotional material, when submitting information to us.

We may employ other companies or individuals to assist us in providing our services, or to provide certain services such as analysing customer lists, providing marketing assistance or consulting services. These third parties may have access to information needed to perform their function but cannot use that information for other purposes.

We do not provide any personal information to any third parties other than where required by law or as set out in this Privacy Statement.

We will not sell, trade or rent your personal information to others. We may provide aggregate statistics on our customers and users of our website to third parties such as advertisers, but these statistics will include no personally identifying information.

We co-operate with law enforcement agencies as required by law. We will also use or disclose personal information if we reasonably believe that it is necessary to lessen or prevent a serious or imminent threat to the life or health of a person.

Security

All reasonable steps are taken to ensure that all information is treated confidentially, kept secure and protected against unauthorised use, modification or disclosure and is maintained only for the purpose for which it is intended. Your email address will not be distributed to any third party.

We use secure data communications technology.

You have the rights given by the Privacy Act 1988 as amended.

Anonymity

Where possible, we give you the opportunity to deal with us anonymously. We may not however be able to provide you with our full range of services and products if you do not provide us with personal information.

Access

All reasonable steps are taken to correct the information we hold where that information is not accurate, up-to-date and complete.

You have the right to access your personal information to ensure that it is accurate, relevant, up to date and complete. If you believe that any of your personal information is incorrect, please let us know. There is no fee for requesting access to your information, however, we may charge you the reasonable cost of processing your request.

We may decline access to your personal information in special circumstances, such as where allowing you access could put you or another person at risk of harm, infringes on the privacy of another person or if we believe that your request for access is unlawful, frivolous or vexatious.

Intellectual Property

Intellectual property in all material sent to you belongs to, is licensed to or is authorised for use by us. We permit you to print or download extracts from this material for your personal use only. None of this material may be used for any commercial or public use, stored in or transmitted to any other website or distributed in any other form without our prior permission.

Cookies

Cookies that are used in any part of our website will not be utilised for collecting personally identifiable information and will only be used for internal management purposes.

Links

Our website may from time to time contain links to the websites of other organisations which may be of interest to you. If you access linked sites, you do so at your own risk. We do not operate or control these third-party sites and we are not responsible for their contents, operation, privacy, accuracy or security policies. This Privacy Statement does not cover any linked sites.

Contact Us

If any personal information you submit changes, please update that information by contacting us.

We may from time to time make changes to this Privacy Statement. The latest version of our Privacy Statement is available on our website. You can also contact us to obtain a copy our Privacy Statement.

Requests for information about our Privacy Statement are welcomed. For further information on our Privacy Statement please contact:

Privacy Officer**Dicker Data Limited**

230 Captain Cook Drive

KURNELL NSW, 2231

Ph: +612 9589 8400

Email: accounts@dickerdata.com.au

SCHEDULE 2 -SPECIFIC CUSTOMER TERMS