



STANDARD TERMS AND CONDITIONS OF SALE

Unless otherwise agreed to in writing by OmniSTAR Pty Ltd (OmniSTAR) all quotations expire THIRTY (30) days after the date of the quotation or the end of the OmniSTAR Rate Card/Price List validity, whichever is earlier. All prices quoted are valid only if Buyer's requested delivery date (including any change orders) is within three (3) months of the date on which the original order is placed.

Unless quoted as such, or otherwise agreed to in writing by OmniSTAR, all prices quoted are in Australian Dollars exclusive of any and all taxes or duties (including any GST). Such taxes or duties shall be for the Buyer's account and appear as separate items on OmniSTAR's invoice.

1. PAYMENT TERMS/PASSAGE OF TITLE

Unless otherwise agreed to in writing by OmniSTAR and/or OmniSTAR officially/legally appointed Agents or Resellers, Buyer shall pay all invoices issued within thirty (30) days from the date of invoice. OmniSTAR reserves the right to change the credit terms at any time, if in OmniSTAR/OmniSTAR Agents-Reseller's opinion Buyer's financial condition or previous payment record of Buyer so warrants. Thirty (30) day payment terms are subject to approval by OmniSTAR Credit Department. Should Buyer be delinquent in the payment of any sum due OmniSTAR, after ten (10) days from the date of written notice to Buyer OmniSTAR shall not be obligated to continue performance under any agreement with Buyer.

Title to and Property in the goods remains with OmniSTAR and Buyer agrees to hold the goods as bailee for OmniSTAR until payment in full to OmniSTAR for the goods.

In the event of the buyer being delinquent in payment OmniSTAR may at any time terminate any contract relating to the goods and may thereupon take possession of the goods until payment in full to OmniSTAR for the goods.

2. DELIVERY DATES

Shipments of any products purchased are subject to OmniSTAR/OmniSTAR Agents-Reseller's availability schedule. OmniSTAR shall make every reasonable effort to meet any delivery date(s) quoted or acknowledged. However, OmniSTAR will not be liable for its failure to meet such delivery date(s).

3. DELAYS IN PERFORMANCE

OmniSTAR shall not be liable for any delay in performance hereunder due to unforeseen circumstances or causes beyond its control including, but not limited to, acts of nature, act of government, strikes, delays in transportation, and delays in delivery or inability to deliver by OmniSTAR suppliers.

4. SHIPMENT, RISK OF LOSS AND PACKING

OmniSTAR shall ship in accordance with Buyer's shipping instruction. In the absence of specific instructions or if Buyer's instruction are deemed unsuitable, OmniSTAR reserves the right to ship by the method which OmniSTAR considers to be the most appropriate.

Unless otherwise agreed to in writing by OmniSTAR, all shipments shall be FCA (ICC Incoterm 1990) at OmniSTAR/OmniSTAR Agents-Reseller's premises and risk of loss and damage shall pass to Buyer on delivery.

Unless otherwise agreed to in writing by OmniSTAR, all products shall be packed, if appropriate, for shipment and storage in accordance with standard commercial practices.

5. ORDER OF PRECEDENCE

These Terms and Conditions of Sale and any attachments take precedence over Buyer's additional or different terms and conditions, to which notice of objection is hereby given. Acceptance by Buyer is tied to these terms and conditions. Neither OmniSTAR/OmniSTAR Agents-Reseller's commencement of performance nor delivery will be deemed or construed as acceptance of Buyer's additional or different terms and conditions.

Buyer's purchase of OmniSTAR products hereunder represents acceptance of these Terms and Conditions of Sale and any attachments, which together constitute the entire understanding between parties and supersede any previous communications, representations, or agreements by either party whether verbal or written. No change or modification of any of the terms or conditions herein shall be valid or binding on either party unless in writing and signed by an authorised representative of each party.

6. CHANGES AND CANCELLATIONS

If Buyer issues a change order causing a delivery delay or cancels an order less than ninety (90) days prior to the scheduled shipment, such change or cancellation shall be subject to acceptance by OmniSTAR and may incur a charge, provided that OmniSTAR shall use reasonable efforts to accommodate such changes.

If Buyer cancels an order for non-standard products/special equipment or services any time after the order is received by OmniSTAR, Buyer may be subject to an additional charge. Non-standard products/special equipment or services are those items not set forth in OmniSTAR standard products current price list.

7. ACCEPTANCE OF PRODUCTS

Acceptance shall be accomplished by using applicable test procedures or programs established by OmniSTAR. If installation by OmniSTAR is not included in the purchase price, acceptance shall be presumed unless Buyer demonstrates within thirty (30) days of delivery that the products do not perform OmniSTAR established test procedures or programs. If installation by OmniSTAR is included in the purchase price, acceptance shall occur at the installation site when OmniSTAR demonstrates that the applicable diagnostic or verification programs work properly or the product is otherwise demonstrated to be in normal operational condition. If installation is scheduled or delayed by Buyer more than thirty (30) days from delivery, Buyer shall be deemed to have accepted the products on the thirty-first (31st) day from date of shipment.

8. COPYRIGHTED MATERIALS

Unless otherwise agreed to in writing by OmniSTAR, OmniSTAR copyrighted material (software and printed documentation) may not be copied except for archive purposes, to replace a defective copy, or for program error verification.

9. INTELLECTUAL PROPERTY RIGHTS

OmniSTAR retains all title and, except as expressly provided herein, all rights to software and other intellectual property and all related documentation and materials (Software). Notwithstanding anything to the contrary herein contained, "purchase" of software shall only entitle the buyer to a license to use the software for its intended purpose.



10. WARRANTY

OmniSTAR hardware products are warranted against defects in materials and workmanship. If OmniSTAR receives notice of such defects during the warranty period, OmniSTAR shall, at its option, either repair or replace hardware products which prove to be defective.

OmniSTAR software and firmware products which are designated by OmniSTAR for use with a hardware product, when properly installed on that hardware product, are warranted not to fail to execute their programming instructions due to defects in materials and workmanship. If OmniSTAR receives notice of defects during the warranty period, OmniSTAR shall repair or replace software media and firmware that do not execute their programming instructions due to such defects. OmniSTAR does not warrant that operation of the software, firmware or hardware shall be uninterrupted or error free. If OmniSTAR is unable, within a reasonable time, to repair or replace any product to a condition as warranted, Buyer will be entitled to a refund of the purchase price upon return of the product to OmniSTAR.

a. The warranty period for each product is specified in each quotation. The warranty period begins either on the date of delivery or, where the purchase price includes installation by OmniSTAR, on the date of installation. If Buyer schedules or delays delivery or installation more than thirty (30) days from the date the product is available for delivery or installation, the warranty period begins on the thirty-first (31st) day from the date the product is so available.

b. Warranty and installation services will be performed at Buyer's facility only upon OmniSTAR's prior agreement and Buyer shall pay OmniSTAR round trip travel expenses and applicable additional expenses for such services. For product warranties requiring return to OmniSTAR, products must be returned to a service facility designated by OmniSTAR, Buyer shall prepay shipping charges (and shall pay all duties and taxes) for products returned to OmniSTAR for warranty service. Except for products returned from another country, OmniSTAR shall pay for return of products to Buyer.

c. Limitation of Warranty: The foregoing warranty shall not apply to defects resulting from:

- Improper or inadequate maintenance by Buyer;
- Buyer-supplied software or interfacing;
- Unauthorised modifications or misuse;
- Operation outside of the environmental specifications for the product; or
- Improper site preparation and maintenance.

SUBJECT TO PARAGRAPH (d) THE WARRANTY SET FORTH ABOVE IS EXCLUSIVE AND EXCEPT AS PROVIDED BELOW NO OTHER WARRANTY, WHETHER WRITTEN OR ORAL IS EXPRESSED OR IMPLIED. OmniSTAR SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

d. There are several Federal/Commonwealth, State and Territorial laws which imply certain consumer warranties and liabilities into contracts for the supply of goods and services. If these laws apply to any consumer supply or contract made under this agreement, these terms and conditions of sale do not exclude, restrict or modify the application or effect of any such implied conditions, warranties or liabilities except that where the law allows liability in such consumer contracts to be limited in the event of any breach of any implied warranty or condition or liability, the liability of OmniSTAR will be limited to, at OmniSTAR's sole option, either the replacement of the goods, the repair of the goods, the payment of the cost of replacing the goods or the payment of the cost of having the goods repaired.

e. The Buyer warrants that the products will not be used for any personal, domestic or household use.

11. LIMITATION OF REMEDIES AND LIABILITY

a. SUBJECT TO PARAGRAPH (10d) THE REMEDIES PROVIDED HEREIN ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. IN NO EVENT SHALL OmniSTAR BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF OmniSTAR HAS BEEN INFORMED OF THE POSSIBILITY THEREOF.

b. The foregoing limitation of liability shall not apply in the event that any OmniSTAR product sold hereunder is determined by a court of competent jurisdiction to be defective and to have directly caused bodily injury, death or damage to property which is of a kind ordinarily acquired for private, personal, domestic or household use, provided that the claim for damage or loss is made within 3 years of the damage or loss and within 10 years of the supply of the products in question.

c. Every exemption from liability, defence and immunity of whatsoever nature applicable to OmniSTAR or to which OmniSTAR is entitled hereunder shall also be available and shall extend to protect every one of its affiliates, servants or agents acting hereunder or making or giving statements, information or advice as aforesaid and for the purposes of this clause OmniSTAR shall be or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be its affiliates, servants or agents from time to time as well as on its own behalf and all such persons shall to this extent be or be deemed to be parties to this agreement.

12. NUCLEAR AND AVIATION APPLICATIONS

OmniSTAR products are not specifically designed, manufactured or intended for sale as parts, components or assemblies for the planning, construction, maintenance, operation or use of any nuclear facility nor for the flight, navigation or communication of aircraft or ground support equipment. Any Buyer using OmniSTAR products for these applications agrees that, except as otherwise provided herein, OmniSTAR is not liable, in whole or in part, for any claims or damages arising from such use. If Buyer uses OmniSTAR products for such applications, Buyer agrees to indemnify and hold OmniSTAR harmless from any claims for loss, cost, damage, expense or liability arising out of or in connection with the use and performance of OmniSTAR products in such nuclear or aviation applications. Test equipment used in a static application which is not a functional part, component or assembly of an aircraft and is not attached to or utilised in the flight of an aircraft is not subject to this paragraph.

13. EXPORT ADMINISTRATION REGULATIONS

For products with ultimate destination in countries other than Australia Buyer shall take actions necessary to obtain at Buyer's expense all required export licenses to permit the exportation of products and documentation. Any agreement is subject to the obtaining of said export license. Such products and documentation shall not be dealt with by the Buyer in violation of the export licenses and/or applicable regulations. Buyer acknowledges its awareness of said regulations and shall furnish all information and documentation necessary to obtain such licences.

14. TAX

The Buyer must pay any taxes, duties, levies, imposts or similar fees or charges in respect of the sale of products by OmniSTAR to the Buyer (including but not limited to goods and services tax) ("Taxes"). In the event that Buyer claims a Tax exemption from OmniSTAR and in the event that OmniSTAR does not charge Tax to the Buyer in the event of a Tax exemption claim by Buyer, Buyer agrees to indemnify OmniSTAR from any Tax penalties and any costs associated with such Tax and penalties. Buyer agrees to pay immediately on demand any Tax and any penalties levied on OmniSTAR as a result of a Tax exemption claim being disallowed.



15. STAMP DUTY

Stamp Duty is levied on documents at different rates in various states of Australia. In the event that OmniSTAR/OmniSTAR Agents-Resellers does not charge Stamp Duty to the Buyer in the event of a Stamp Duty Exemption claim by Buyer, Buyer agrees to indemnify OmniSTAR from any Stamp Duty penalties and any costs associated with such Stamp Duty and penalties. Buyer agrees to pay immediately on demand any Stamp Duty and any Stamp Duty penalties levied on OmniSTAR as a result of a Stamp Duty claim being disallowed.

16. RENTAL

In the event of rental of the equipment the rental period will commence on the date of shipment from the OmniSTAR/OmniSTAR Agent-Reseller premises and will complete on return of the equipment to the OmniSTAR/OmniSTAR Agent-Reseller premises. If the rented equipment is not returned to OmniSTAR/OmniSTAR Agent-Resellers then the rental period will be deemed to be extended until the return of the equipment. The renter will take good care of the equipment and will be responsible for the repair or replacement of equipment returned in damaged condition

17. MISCELLANEOUS

a. Except as may be prohibited by applicable law, in the event of any insolvency or inability to pay debts as they become due by a party hereto, or voluntary or involuntary bankruptcy proceeding by or against a party hereto, or appointment of a receiver or assignee for the benefit of creditors, the other party may elect to cancel any unfulfilled obligations hereunder.

b. Any required notices shall be given in writing at the address of each party set forth in the attachments hereto, or to such other address as either party may substitute by written notice to the other.

c. Neither party may assign or transfer any of the rights, duties nor obligations herein without the prior written consent of the other and any purported attempt to do so shall be null and void.

d. OmniSTAR failure to exercise any of its rights hereunder shall not constitute or be deemed a waiver or forfeiture of such rights.

e. No Government Procurement Regulations shall be included hereunder and binding on either party unless specifically agreed to in writing prior to incorporation herein.

f. Stenographical, typographical and clerical errors are subject to correction.

g. Any dispute regarding the interpretation or validity hereof shall be governed by the laws of the State of Western Australia. The parties hereby agree that any dispute relating to the products sold hereunder shall be subject to the jurisdiction of the courts within the State of Western Australia.