

SYSTEMATIQ STANDARD TERMS AND CONDITIONS OF SALE



These Terms and Conditions are between **Systematiq Pty Ltd (Systematiq)** and the purchaser of services under this Agreement (**Buyer**). Together, Systematiq and the Buyer are referred to as the **Parties**.

By placing an order with Systematiq, the Buyer agrees to be bound by these terms and conditions (the **Agreement**). These terms apply unless otherwise agreed in writing. All quotations issued by Systematiq are provided strictly on the basis that any resulting order will be governed by this Agreement.

Any purchase order, acceptance or other document issued by the Buyer in connection with the supply of services, and any terms and conditions attached to or referenced in such documents will have no effect and will not vary or override this Agreement unless expressly agreed in writing by Systematiq.

1. ACCEPTANCE

1.1 The Buyer is deemed to have accepted this Agreement by doing any of the following:

- (a) signing and returning this Agreement;
- (b) sending an email accepting this Agreement (expressly or impliedly); or
- (c) instructing Systematiq to proceed with the Services or making any payment of the Price in respect of the Services.

2. SERVICES

- 2.1 Systematiq agrees to provide the Services in accordance with this Agreement and all relevant laws
- 2.2 The Buyer acknowledges and agrees that any dates for completion notified by Systematiq are estimates only, and Systematiq will have no Liability to the Buyer for failing to meet any such dates.
- 2.3 Systematiq may provide the Services using its Personnel, who are included in this Agreement.
- 2.4 All variations to the Services must be agreed in writing between the Parties and will be priced in accordance with any schedule of rates provided by Systematiq, or otherwise as reasonably determined by Systematiq. Systematiq is not obliged to comply with any instructions that constitute a variation unless agreed in writing.

3. PRICE AND PAYMENT

- 3.1 **Payment Terms:** Unless otherwise agreed in writing, payment for services is due strictly within 30 days of the invoice date. All invoices must be paid in full without deduction or set off.
- 3.2 The Buyer agrees to pay Systematiq the Price and all other reasonable expenses or disbursements properly incurred in the provision of the services, in accordance with the Payment Terms. All amounts are stated in Australian dollars and are exclusive of GST (unless otherwise stated).
- 3.3 Pricing for Services provided after a period of more than 12 months after the Start Date may be escalated based on changes in the Consumer Price Index (CPI).
- 3.4 If any amounts remain unpaid after the payment due date, Systematiq may, without prejudice to any other rights:
 - (a) charge interest at a rate equal to the Reserve Bank of Australia's cash rate from time to time plus 8% per annum (calculated daily and compounding monthly);
 - (b) suspend the provision of goods and/or services until payment is received; and
 - (c) recover any costs of enforcement or collection from the Buyer.

4. BUYER OBLIGATIONS AND WARRANTIES

- 4.1 The Buyer represents, warrants, acknowledges and agrees that:
 - (a) there are no legal restrictions preventing the Buyer from entering into this Agreement;
 - (b) the Buyer will cooperate with Systematiq, and provide all documentation, information, instructions and access necessary to enable Systematiq to provide the Services, in a timely manner;
 - (c) the information you provide is true, correct and complete;
 - (d) the Buyer will not infringe any third-party rights in working with Systematiq and receiving the Services;
 - (e) the Buyer will provide Systematiq and its Personnel with sufficient access, free from harm or risk to health or safety, to any relevant premises (including any facilities at the premises), to enable Systematiq to provide the Services; and
 - (f) the Buyer is responsible for obtaining, and providing any access, consents, licences, approvals and permissions from other parties necessary for the Services to be provided, at the Buyer's cost.

5. STATUTORY RIGHTS

- 5.1 Nothing in this Agreement excludes the Buyer's statutory rights under the Australian Consumer Law (ACL) or other similar consumer protection laws. Systematiq's liability for goods and/or services is governed solely by the ACL and this Agreement.
- 5.2 Subject to the Buyer's statutory rights, Systematiq excludes all express and implied warranties, representations and guarantees of any kind. All goods and services are provided without warranties, representations or guarantees of any kind unless expressly stated.

6. TERM AND TERMINATION

- 6.1 This Agreement will commence on the Start Date and continue for the Term, unless terminated earlier in accordance with this Agreement.
- 6.2 Either Party may terminate this Agreement if the other Party breaches a material term and fails to remedy that breach within 10 business days after receiving written notice.
- 6.3 Systematiq may terminate this Agreement for convenience by giving the Buyer not less than 20 business days' written notice. In that event:
 - (a) the Buyer must pay Systematiq for all Services performed up to the effective date of termination; and
 - (b) the Buyer must reimburse Systematiq for any reasonable, properly incurred costs, expenses or non-cancellable commitments incurred in connection with the Services that cannot reasonably be avoided or mitigated.

6.4 On termination or expiry of this Agreement, the Buyer agrees that:

- (a) any amounts paid for services already supplied are non-refundable;
- (b) the Buyer will pay all amounts due and payable under this Agreement for services provided up to the termination date; and
- (c) the Buyer will return or give Systematiq access to recover all property belonging to Systematiq (including Intellectual Property or Confidential Information).

6.5 Termination does not affect any accrued rights, obligations or remedies of either party.

7. LIABILITY, INDEMNITY AND EXCLUSIONS

7.1 To the maximum extent permitted by law:

- (a) neither Party will be liable for any Consequential Loss;
- (b) each party's liability will be reduced proportionately to the extent the Liability was caused or contributed to by the acts or omissions of the other party (or its Personnel); and
- (c) Systematiq's maximum aggregate liability in relation to the provision of services or this Agreement will be limited to repayment of the Price paid by the Buyer for the relevant goods or services.

7.2 The Buyer indemnifies Systematiq against all Liability arising from or connected with:

- (a) any breach of this Agreement by the Buyer; or
- (b) any negligent, unlawful or wilful act or omission by the Buyer or its Personnel.

8. INTELLECTUAL PROPERTY

- 8.1 All Intellectual Property Rights developed, adapted, modified or created by or on behalf of Systematiq in connection with this Agreement remain vested in Systematiq.
- 8.2 The Buyer grants Systematiq a non-exclusive, revocable, worldwide, non-sublicensable and non-transferable licence, for the duration of this Agreement, to use the Buyer's Intellectual Property as necessary to perform obligations under this Agreement.
- 8.3 Nothing in this Agreement constitutes a transfer or assignment of any Intellectual Property Rights of Systematiq unless expressly stated.

9. CONFIDENTIALITY

- 9.1 The Buyer must keep confidential, and not use or permit any unauthorised use of, all Confidential Information of Systematiq.
- 9.2 Clause 9.1 does not apply where disclosure is required by law or is made to a professional adviser for advice in relation to this Agreement, provided the adviser is bound by confidentiality obligations.

10. GENERAL

- 10.1 **Disputes:** A Party must not start court proceedings about any dispute arising under this Agreement without first meeting with a senior representative of the other Party to try, in good faith, to resolve it. If the dispute is not resolved at that meeting, either Party may refer it to mediation. Both Parties agree to participate in the mediation in good faith, and the costs will be shared equally. This clause does not prevent either Party from seeking urgent injunctive or equitable relief from a court.
- 10.2 **Governing law:** This Agreement is governed by the laws of the State of Victoria, Australia.
- 10.3 **GST:** If applicable, GST payable on the Price will be set out in Systematiq's invoice and must be paid by the Buyer at the same time as the Price.
- 10.4 **Notices:** Notices must be in writing and delivered by post or email. Notices are deemed received 5 business days after posting or at the time of email transmission.
- 10.5 **Severance:** If any provision is unenforceable, it will be read down or severed to preserve enforceability of the remainder.
- 10.6 **Survival:** Clauses relating to payment, liability, indemnity, intellectual property, confidentiality and dispute resolution survive termination.

11. INTERPRETATION & DEFINITIONS

Confidential Information means information relating to Systematiq's business, assets, operations, or the subject matter of this Agreement, disclosed in any form.

Consequential Loss includes loss of profit, revenue, opportunity, use, or any indirect or special loss.

End Date means the date specified in this Agreement as the end date, or if no date is specified where the Services are for a defined scope or deliverable, the date the Services are completed; or where the Services are ongoing or recurring in nature, the date this Agreement is terminated by either party giving not less than 30 days written notice.

Intellectual Property means all copyright, trademarks, patents, designs, trade secrets and related rights.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party, a Party or otherwise.

Personnel means employees, consultants, suppliers, subcontractors or agents.

Price means the amount payable by the Buyer for the goods and/or services supplied under this Agreement.

Start Date means the date specified in this Agreement as the start date, or if no date is specified, the earlier of the date the Buyer first instructs Systematiq to proceed with the Services; or the date the Buyer makes any payment of the Price.

Term means the period beginning on the Start Date and ending on the End Date, unless terminated earlier in accordance with this Agreement