

TERMS & CONDITIONS



These are the terms and conditions on which Centaur Software Development Pty Ltd ABN 18 057 620 390 T/A Centaur Imaging (“we”, “us” and “our”) sells the equipment set out on the attached Order and Confirmation to its customers (“you” and “your”):

1. CONTRACT AND WHOLE AGREEMENT

1.1 The contract between us and you is wholly documented by the terms in the Order and Confirmation of Acceptance and these Terms and Conditions of Sale (“the Contract”).

1.2 The Contract constitutes the whole of the agreement between you and us. All of the agreements and understandings between you and us are set out in the Contract and they supersede all prior agreements, understandings and statements, whether written or oral.

2. ORDERS AND ACCEPTANCE

We will only be bound by the Contract after we receive a signed Order from you and that Order is then countersigned by one of our senior officers as confirmation and acceptance of your Order. An Order must include a Preferred Delivery Date and a Preferred Installation Date.

3. PRICE

The Prices charged for equipment will be according to a Current Quotation for that equipment which will be set out in the Order and the Confirmation; however the Price may be subject to an increase if the rate of GST should increase or if a future tax or duty is imposed on the sale, delivery or installation of the Equipment.

4. PAYMENT AND INTEREST

4.1 The full invoice amount is payable at least 3 days prior to delivery of the Equipment to you regardless of whether there has been delays in other equipment or work extraneous to your Order to us (e.g. Building, alterations or electrical).

4.2 We will provide a Tax Invoice to you at least 3 days prior to delivery of the Equipment.

4.3 All payments to us must be done without set-off, deduction or counterclaim.

4.4 If any payment is not made by the due date then we will be entitled to:

- (a) Cancel or suspend any further delivery of equipment to you under any other order; and
- (b) Charge interest at the rate of 2% per month

4.5 You must pay to us all costs and expenses incurred or which will be incurred by us in respect of any action for recoveries of monies or repossession of equipment, including but not limited to mercantile agent’s fees, solicitor’s fees (on an indemnity basis), fees of legal advisers and other parties acting on behalf of us.

4.6 Debit card and credit card fees

Unless your account is paid by Direct Debit, payments made via credit or debit cards (VISA/MasterCard only) will incur a Payment Processing Fee. For applicable rates on credit and debit payments, please refer to <http://www.centaursoftware.com.au/payments>. Diners Club, American Express and other cards are not accepted.

4.7 Should you cancel the order for any reason we will be entitled to charge you a 20% restocking fee or costs incurred by us whichever is greater.

5. DELIVERY AND RISK

5.1 We will use our best endeavours to deliver the Equipment to you on the Preferred Delivery Date, however, we will not be responsible for any delay or failure to do so.

5.2 We will arrange transport of the Equipment to the delivery address set out in the Order but if the Equipment is damaged in any way during transportation or delivery then our liability is limited to repairing it or replacing it if we believe that is required. We will not be responsible for any costs or losses resulting from delays due to the need for the repair or replacement of the Equipment.

5.3 Risk of damage to, or loss or theft of or deterioration of, the Equipment (and the need to insure it) passes to you once the Equipment is delivered irrespective of whether the Equipment is installed or not.

6. STORAGE

6.1 If you notify us that you are not ready for the Equipment to be delivered on the Preferred Delivery Date then we will store the Equipment for you for up to 30 days at no cost to you.

6.2 If after 30 days you are still not ready for the Equipment to be delivered then you agree to instruct any relevant finance company to pay us in full for the Equipment being stored for you and you hereby irrevocably authorise us to give notice to your financier to pay us in full for the Equipment.

6.3 If we store any Equipment for you for over 30 days then we may charge you a storage fee at our normal storage rate.

6.4 Risk of damage to, or loss or theft of, or deterioration of, the Equipment (and the need to insure it) passes to you once the Equipment is paid for irrespective of whether the Equipment is stored by us or not.

7. INSTALLATION

7.1 Only Centaur Software / Centaur Imaging authorised persons are to install the Equipment where it is necessary to comply with the warranty of the manufacturer.

7.2 The cost of installation or any related compliance test is not included in the Price of the Equipment unless it is specified in the Order and confirmed in our Acceptance of the Order.

7.3 If we are to install the Equipment then we will not be responsible for any costs or losses resulting from any delay in the installation.

7.4 Installation will be complete when the Equipment operates successfully using its standard test procedure.

7.5 It is your sole responsibility to ensure that the site meets all government compliances and regulations including Radiation Shielding compliance requirements.

7.6 It is your sole responsibility to ensure that the site and services (power, I.T. Systems and other external connections) are prepared to our specifications as required for the correct installation and operation of the Equipment. If the site and or services do not meet the specifications then you will be liable for the additional costs arising from the delays and difficulties in the installation of the Equipment.

8. PROPERTY AND TITLE

8.1 Notwithstanding that the risk in the Equipment may have passed to you, property in and title to the Equipment will not pass from us to you until the Equipment has been paid for in full and until then:

- (a) You will hold the Equipment as fiduciary and agent for us;
- (b) The Equipment must be marked so as to be separately identifiable;
- (c) You may sell the Equipment in the ordinary course of business as agent for us and you must hold the proceeds of sale in a separate account on trust for us and account to us those proceeds; and
- (d) We may require you to return the Equipment to us on demand and you hereby authorise us or our employees or agents to enter upon your premises to inspect or repossess the relevant Equipment.

8.2 If recovery of the Equipment is necessary then you will be liable for all our expenses of such recovery and you will be liable to pay an additional amount which is 20% of our expenses calculated from the date of Delivery up to the date of recovery of the Equipment.

9. TERMINATION FOR NON-PAYMENT

If you do not pay for the Equipment in full on or before 90 days from the later of:

- (a) The Preferred Delivery Date (set out in the Order); or
- (b) The date of actual delivery of the Equipment to you then we may terminate this Contract and in addition to any other rights we have the right to sue you to recover any loss we suffer, including but not limited to any loss on the resale of the Equipment.

10. WARRANTIES

If you do not pay for the Equipment in full on or before 90 days from the later of:

- (a) The Preferred Delivery Date (set out in the Order); or
- (b) The date of actual delivery of the Equipment to you; then we may terminate this Contract and in addition to any other rights we have the right to sue you to recover any loss we suffer, including but not limited to any loss on the resale of the Equipment.

11. LIMITATION OF LIABILITY

11.1 The warranty in Clause 10 does not apply in respect of defects specifically drawn to your attention or defects arising from incorrect or negligent handling, disregard of operating and/or maintenance instructions, overloading or unsuitable operating conditions, defective civil or building work, lightning, accident, neglect, faulty erection or installation (unless carried out by us), unauthorised repairs or alterations, acts of God or other causes beyond our control.

11.2 Our liability under Clause 10 is limited (at our option) to replacement or repair or payment of the cost of replacement or repair of the relevant Equipment or repayment of the Price where it has been paid. Any claim against us relating to the quality of the Equipment must be made within 12 months of delivery to be considered.

11.3 Our liability to you for breach of any implied term not excluded by these terms and conditions is limited (at our option) to replacement or repair or payment of the cost of replacement or repair of the relevant Equipment or repayment of the Price where it has been paid.

11.4 We will not be responsible for the cost of any delays in the delivery or installation of the Equipment.

11.5 To the fullest extent permitted by law we will not be liable to you for any loss of profit or other economic loss, direct, indirect or consequential loss, special, general or other damages, or other expenses or costs; or for injuries to any person, arising out of your use or misuse of the Equipment, or from anything under this Contract or from any common law duty (including negligence) by us, our agents or employees; however if any liability is incurred by us by operation of law then such liability shall be limited to the cost of replacing the Equipment or performing any related services again.

12. FORCE MAJEURE

12.1 We are not liable for failure to perform the Contract to the extent and for so long as our performance is prevented or delayed because of:

- (a) Circumstances outside our control;
- (b) Failure of our machinery; or
- (c) Failure of a supplier to us.

12.2 If our ability to fulfil an accepted order is affected by circumstance or event beyond our control we may:

- (a) Extend the date for delivery;
- (b) With your approval, alter the specifications for the goods to allow the substitution of equivalent goods; or
- (b) Cancel the order without liability for the breach.

13. JURISDICTION

You agree that this Contract made with us shall be deemed to have been made in the State in which your Order is accepted by us and you further agree to submit to the exclusive jurisdiction of the appropriate court of that State.

14. MISCELLANEOUS

14.1 You acknowledge that all conditions, warranties or other terms implied by statute or common law are expressly excluded from this Contract to the fullest extent permitted by law.

14.2 This Contract may only be varied if the variation is in writing and signed by us and you.

14.3 The sale to and purchase by you of the Equipment does not confer on you any licence or right under any copyright, patent, registered design or trademark which is our property and you agree to conform to all reasonable requirements imposed by us with respect to trademarks or identification marks in respect of the Equipment.

15. X-RAY EQUIPMENT

Where an order in a state or territory includes X-Ray equipment and that state or territory has a licence system for X-Ray equipment, you acknowledge that we cannot deliver the Equipment to you until you supply us with a valid X-Ray user's Licence Number.