

Trading Terms & Conditions

The following trading terms and conditions, as amended from time to time ("**Trading Terms**"), shall apply to all Goods and Services sold by FluidIntel Pty Ltd ACN 072 524 433 to its Customer. These trading terms and conditions do not restrict or modify any conditions, warranty, guarantee, right or remedy implied by law which, by the terms of the law cannot be excluded, restricted or modified.

1. Interpretation

In these conditions:-

- (a) "Company" means FluidIntel Pty Ltd ACN 072 524 433.
- (b) "Customer" means the entity entering in the contract with FluidIntel.
- (c) "Goods" means the goods and merchandise supplied by the Company.
- (d) "Services" means services provided by the Company under this agreement, including but not limited to design, commissioning, support services, etc.
- (e) "Completion" means

For Goods - Delivery of any Goods to the delivery point.

For Services - The completed performance of Services, apart from minor defects which do not affect the intended use of the product/system.

2. Application and Variation

These conditions shall prevail over all conditions of the Customer's order to the extent of any inconsistency, and may only be waived or varied in writing signed by the Company.

3. Warranty

The Company offers warranty on all Goods supplied by FluidIntel for the duration of 12 months from the date of Completion. The warranty does not automatically cover associated services, preventative maintenance, remedial maintenance such as removal, packing, shipping, installation of replacement part(s), commissioning of replacement parts, etc. The Company reserves the right to repair or replace faulty part(s) during the warranty period.

4. Company's Quotation

- 4.1 Unless previously withdrawn, the Company's quotations are open for acceptance within the period stated therein or, when no period is so stated, within 30 days after the quotation date. The Company reserves the right to refuse any order.
- 4.2 All quoted prices are exclusive of Goods and Services Tax (GST) where applicable and the Customer shall pay the GST in addition to the quoted price.
- 4.3 The Company reserves the right to vary prices due to foreign exchange impact, giving a minimum of 14 days notice to the Customer.

5. Shortage / Discrepancies

The Customer waives any claim for shortage or discrepancies of any Goods delivered if a written and detailed claim has not been lodged with the Company within 7 days from the date of receipt of the Goods by the Customer.

6. Delivery

- 6.1 The Company is not responsible for any loss or damage to the Goods in transit after dispatch from the Company's premises. All carriers nominated by the Customer are deemed to be agents of the Customer.
- 6.2 Any delivery times made known to the Customer are estimates only and the Company shall not be liable for late delivery or non-delivery including for any loss, damage or delay occasioned to the Customer or its customers arising from late or non-delivery of the Goods.
- 6.3 The Goods may be delivered in instalments and each delivery shall be regarded as separate.
- 6.4 The Company may refuse to deliver Goods to the Customer where the Customer is overdue on any payment owing to the Company.
- 6.5 If the Company is unable to deliver Goods due to any cause beyond its control it may suspend delivery or cancel the Customer's order without incurring any liability for loss or damage suffered by the Customer. The Customer may not cancel or refuse delivery of any suspended order without the prior written consent of the Company.
- 6.6 The Company may levy an additional freight charge where urgent delivery is requested by the Customer.
- 6.7 A freight charge is applicable for orders of Goods less than an amount as determined by the Company from time to time and listed in the Company's schedule of charges issued to the Customer.

7. Payments terms

- 7.1 Deposit payment – 40% of contract value invoiced on placement of order with 7 day terms,
Second Payment - 40% of contract value upon shipment.
Third Payment – 20% of contract value upon Completion.
- 7.2 Except for the deposit payment, the Customer will pay the Company the invoiced amount within 30 days of receiving the invoice. It is the Customer's responsibility to ensure that the appropriate funds are delivered by the due date.
- 7.3 Payment to be made by Direct Bank Transfer to the nominated bank account.
- 7.4 Failure to pay in full within the 30 day period will incur a 15% per annum interest charge to any outstanding balance, calculated from day 31.

8. Cancellations

No order may be cancelled or Goods returned except with the Company's prior written consent and on terms satisfactory to the Company including, without limitation, that the Customer indemnify the Company against all loss suffered by the Company in cancelling an order or returning Goods (as the case may be).

9. Retention of title

9.1 Legal ownership of Goods shall remain with the Company until the Company has received full payment for all Goods supplied by the Company to the Customer.

9.2 Prior to the transfer of title of the Goods from the Company to the Customer, the Customer shall be bailee of the Goods for the Company only and the Customer expressly acknowledges that it owes a fiduciary duty to the Vender not to deal with the Goods contrary to the Trading Terms.

9.3 From the despatch of the Goods by the Company to the Customer, the Goods are at the Customer's risk.

9.4 The Company will have the right to retake possession of any Goods which have not been paid for in accordance with the Company's terms of payment.

9.5 The Customer irrevocably gives the Company and its agents the right to enter upon the Customer's premises (whether occupied by the Customer, or another or unoccupied) without giving notice and to search for and remove any of the Goods and to keep and re-sell them without in any way being liable to the Customer or to any person or company claiming through the Customer, and the Customer will indemnify and keep indemnified the Company in respect of any claim arising out of any act of the Company under this clause.

10. Limitation of Liability

No liability whatsoever (except as provided by law) will be accepted by the Company for any direct or indirect loss or damage (including loss of forecasted or actual revenue or profits, loss of livelihood or goodwill or unanticipated incurring of debt) relating to delivery of Goods and Services, account suspension or closure or any other act or omission on the part of the Company or any of its servants, agents or contractors. Where liability is accepted, it is limited (except as provided by law) to the contract amount of this agreement, and excludes consequential and indirect loss or damage.

11. Governing Law

So far as the law allows, the Trading Terms shall be governed by and construed in accordance with the law of, Australia, and the parties agree to submit to the jurisdiction of the courts of that jurisdiction in which Australian State it operates to the exclusion of the courts of any other jurisdiction which may otherwise be available.

12. Third Party Hardware

The company does not accept liability for any third party hardware issues not directly associated with the installation and ongoing use of AdaptFMS. In the case of a tank leak or malfunction to a tank or other third party hardware, the liability rests with the manufacturer of that hardware.