

C.O.D Dealer Application

Please download and email completed application form to accounts@hyka.com.au

Company Information

Business Name*: _____ ABN/ACN*: _____

Date Established: _____ Website: _____

Business Address*: _____ Suburb: _____ State: _____ Post Code: _____

Mailing Address: _____ Suburb: _____ State: _____ Post Code: _____

Preferred Delivery Option*: Pickup HYKA Courier My Courier - Name & Acc. No: _____

Email for Dispatch Confirmation*: _____

Preferred HYKA Sales Representative: _____

Have you previously held an account with HYKA? Yes No

Previous Trading Name (if applicable): _____

Primary Contact

Name*: _____ Position*: _____

Phone Number*: _____ Mobile: _____ Email*: _____

Drivers Licence Number*: _____ State of Issue*: _____

Additional Contact Information

Sales: _____ Email: _____ Phone: _____

Purchasing: _____ Email: _____ Phone: _____

Accounts: _____ Email: _____ Phone: _____

Other: _____ Email: _____ Phone: _____

Business References

Company*: _____ Contact Name: _____ Phone: _____

Company*: _____ Contact Name: _____ Phone: _____

How did you hear about us? Referral Search Engine Other _____

I have read and accepted Terms and Conditions

Name: _____ Date: _____

For Office Use Only

Dealer Code: _____ Authorised By: _____

TERMS AND CONDITIONS

1. GENERAL

The whole of Agreement between HYKA Technology (SA) Pty Ltd A.C.N. 110 474 078 ("HYKA") and the Applicant referred to in the Dealer Application ("Customer") are those set out in these Terms and Conditions and those, if any, which are implied and which cannot be excluded by law ("Terms"). Any other contractual terms of the Customer (whether upon the Customer's order or elsewhere) which are contrary to or inconsistent with these Terms shall not apply nor shall they constitute a counter-offer. By receiving delivery of all or a portion of the goods, the Customer shall be deemed to have accepted these Terms and to have agreed that they shall apply to the exclusion of all others.

2. PRODUCT AND PRICE

2.1 You may offer to purchase from us certain products, being: (i) our products, which may include the provision of equipment ("our product"); and (ii) products or services including data migration services ("collectively, "the products").

2.2 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.

3. PAYMENT

3.1 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. If you do not have a pre-approved account limit, payment in advance by cash, cheque, EFT, or credit card is required and must be paid within 7 days of the date of the invoice (failing which, we will be entitled to cancel the order without notice to you). HYKA may charge liquidated damages at a rate equivalent to two percent (2%) in excess of the rate of interest for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983. The Customer is liable for all reasonable expenses (including contingent expenses) and legal costs incurred by HYKA for enforcement of obligations and recovery of monies due from the Customer to HYKA. I / We hereby agree to pay all debt collection costs, in the event that my/our account falls overdue and is placed in the hands of a debt collection agency.

3.2 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.

3.3 An account processing fee will be charged, unless otherwise agreed, for payments made by credit card, up to 1% for payments made by Visa, MasterCard.

3.4 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

4.1 Normally, we allow you to purchase and continue to purchase our product as long as the total of your account does not exceed your preapproved account limit (if any) and you have provided us with two (2)

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.

4.2 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).

4.3 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.

5. ORDERS

5.1 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.

5.2 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.

5.3 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.

6. DELIVERY & SUPPLY

6.1 Any times quoted for delivery is an estimate only and HYKA shall not be liable for failure to deliver, or for delay in delivery. All quoted prices exclude freight costs. If the Customer nominates a freight carrier for delivery of Goods, HYKA is not liable for any loss or damage to those Goods and the Customer must arrange and pay for insurance of those Goods prior to shipping. The Customer shall not be relieved of any obligation to accept or pay for Goods, by reason of any delay in delivery or dispatch. HYKA reserves the right to stop supply at any time if the Customer fails to comply with the Terms or HYKA's credit department withdraws its approval of the Customer.

7. PROPERTY

Until Full payment has been made for all goods supplied by HYKA under these Terms ("Goods"), and any other sums in any way outstanding from the Customer to HYKA from time to time: -

7.1 All sums outstanding become immediately due and payable by the Customer to HYKA if the Customer makes default in paying any other sums due to HYKA, becomes bankrupt, or commits any act of bankruptcy, compounds with its creditors, has judgment entered against it in any court or, being a company, has a provisional liquidator, liquidator, receiver, receiver manager or administrator appointed, notwithstanding the provisions of any other clause in these Terms.

7.2 The property in the Goods shall not pass to the Customer and the Customer shall hold the Goods as Bailee for HYKA (returning the same to HYKA on request). The Goods shall nevertheless be at the risk of the Customer from the time of delivery.

7.3 The Customer is only authorised to sell the Goods to third parties on behalf of HYKA. All payments received from third parties by the Customer for the Goods shall be held on trust for HYKA pursuant to the Bailee/Bailor relationship.

7.4 HYKA is irrevocably authorised to enter any premises where the goods are kept, and to use the name of the Customer and to act on its behalf, if necessary, to recover possession of the Goods.

8. CANCELLATIONS & RETURNS

8.1 No cancellations or partial cancellation of an order by the Customer shall be accepted by HYKA unless it has first consented in writing to such cancellation or partial cancellation and unless a cancellation charge has been paid which, as determined by HYKA, will indemnify HYKA against all loss, without limitation. Cancellation will not be accepted on goods that are not regular stock which are in the process of manufacture or ready for shipment.

8.2 No claim arising from a discrepancy, unreceived Goods or return of Goods will be accepted unless the Goods are undamaged and returned within fourteen (14) days of the invoice date. No Goods are to be returned to HYKA without prior written notice from HYKA. Agreed returns must be accompanied by the appropriate authority to return Goods for credit (with a Return Authority Number provided by HYKA). There will be subject to a twenty percent (20%) re-stocking fee to be paid to HYKA upon return of the Goods.

9. PRIVACY ACT 1988

To enable HYKA to assess the Customer's application for credit, the Customer authorises HYKA: -

9.1 To obtain from a credit reporting agency a credit report containing personal information about the Customer and its guarantors pursuant to Section 18K(1)(b) of the Privacy Act;

9.2 To obtain from a report from a credit report agency and other information in relation to the Customer's commercial credit activities.

And in accordance with Section 18N(1)(b) of the Privacy Act the Customer authorises HYKA to give to and obtain from any credit provider named in the accompanying credit application and credit providers that may be named in a credit report issued by a credit reporting agency information about the customer's credit arrangements. The Customer understands that this information can include any information about its credit worthiness, credit standing, credit history or credit capacity that providers are allowed to give or receive from each other, under the Privacy Act 1988.

9.3 To assess its application for credit (Section 18L (4) Privacy Act).

9.4 To assess it to avoid defaulting on its credit obligations.

9.5 To notify other credit providers of a default by it.

9.6 To assess its credit worthiness.

10. CONFIDENTIAL INFORMATION

10.1 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.

10.1 For the purposes of this clause, "Confidential Information" includes, without limitation, our quotations and our and our 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.

11. NOTIFICATION

The Customer must notify HYKA in writing within seven (7) days of: -

11.1 Any alteration of the name or ownership of the Customer.

11.2 The issue of any legal proceedings against the Customer.

11.3 The appointment of any provisional liquidator, liquidator, receiver, receiver manager or administrator to the Customer.

11.4 Any change in the ownership of the business name of the Customer. The Customer agrees that it shall be liable to HYKA for all Goods supplied to the new owner by HYKA until notice of any such change is received.

12. WARRANTIES

No warranties except those implied and which cannot be excluded by law are given by HYKA in respect of goods or services supplied. Where it is lawful to do so, the liability of HYKA for a breach of a condition or warranty is limited to the replacement of the goods, the supply of equivalent goods, the payment of the cost of replacing the goods or acquiring equivalent goods, the supplying of the services again or the payment of the cost of having the services supplied again, as determined by HYKA.

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.

13. LEGAL CONSTRUCTION

These Terms shall be governed and interpreted according to the laws of South Australia and HYKA and the Customer consent and submit to the jurisdiction of the Courts of South Australia. Notwithstanding that any provision of the Terms may prove to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason that provision is deemed omitted without affecting the legality of the remaining provisions and the remaining provisions of the Terms shall continue in full force and effect.