



Standard Terms and Conditions

Introduction

1. In these terms:
 - 'MIDWICH LIMITED' means Midwich Limited ABN 82 082 281 543;
 - 'Products' means the products and / or services supplied, or proposed to be supplied, by MIDWICH LIMITED to you;
 - 'you' and 'your' means the company and / or person to whom the products and / or services are supplied or proposed to be supplied to.
2. These terms and conditions, together with the MIDWICH LIMITED Warranty Policy:
 - a. govern the sale of products by MIDWICH LIMITED to you to the exclusion of all other terms and conditions including any terms or conditions that you may purport to apply under any purchase order or similar document;
 - b. May only be altered in writing signed by MIDWICH LIMITED; and
 - c. Will be governed by the laws of New South Wales and you agree to submit to the non-exclusive jurisdiction of the courts of that state.

Price

3. Quoted prices are valid for 30 days from the date of written quotation. MIDWICH LIMITED will not accept any responsibility relating to the suitability of its quoted products, services or system designs where inaccurate or incomplete information has been provided by you.
4. Unless specified otherwise, all prices quoted by MIDWICH LIMITED and listed in MIDWICH LIMITED's price lists are in Australian dollars and do not include any other costs and charges associated with the purchase, such as delivery or freight charges, insurance, duties and taxes (including without limitation any custom duties or products and services tax). You are liable to pay all such other costs and charges not included in the price.
5. At any time prior to delivery, MIDWICH LIMITED may notify you of any increase in the price of the products and / or service to reflect any increase in the cost to MIDWICH LIMITED due to factors occurring after the acceptance of the order by MIDWICH LIMITED which are beyond MIDWICH LIMITED's reasonable control (including without limitation, foreign exchange fluctuations, insurance, taxes, duties, cost of labour, materials and other manufacturing costs). You may cancel any order affected by such notice within 3 days of receipt of the notice of a price increase.

Ordering

6. MIDWICH LIMITED reserves the right to accept or decline any order (including orders made pursuant to a quotation by MIDWICH LIMITED) in whole or in part.
7. Once accepted by MIDWICH LIMITED, an order may only be cancelled with the written consent of MIDWICH LIMITED. If you cancel an order, you must pay the cancellation fee (if any) and indemnify MIDWICH LIMITED for any loss or damage MIDWICH LIMITED suffers as a result.
8. In no circumstances will MIDWICH LIMITED be liable to supply superseded or discontinued products.

Risk and Title

9. Where products are conveyed by MIDWICH LIMITED's carrier, risk passes to you on delivery at your nominated address. Where products are conveyed by your nominated carrier, risk passes to you on delivery to your nominated carrier.
10. MIDWICH LIMITED retains all ownership and title to all products sold to you until MIDWICH LIMITED receives full payment (in cleared funds) for the products and or



services sold and for any other debts owing by you to MIDWICH LIMITED whether in relation to this contract or any other contract or account (*Customer's Debts*).

11. Until MIDWICH LIMITED receives full payment (in cleared funds) for the products and or services sold and for all Customer's Debts:
 - a. title to the products will not pass to you;
 - b. You hold the products as bailee of MIDWICH LIMITED;
 - c. you owe fiduciary obligations to MIDWICH LIMITED; and
 - d. MIDWICH LIMITED may enter your premises and take possession of the products. If the products are not situated at your premises, you shall arrange it so that MIDWICH LIMITED is entitled to collect the products wherever they are situated. You shall reimburse MIDWICH LIMITED for all costs involved in taking re-possession of the products.
12. MIDWICH LIMITED reserves the right to resell any products MIDWICH LIMITED retakes possession of under this agreement.
13. You must notify MIDWICH LIMITED immediately of any default under this agreement or any action by third parties which may affect MIDWICH LIMITED's interest in the products under this agreement.
14. If you sell the products, you must pay to MIDWICH LIMITED the proceeds of sale of any products for which MIDWICH LIMITED has not received payment in accordance with clause 21 of these terms and conditions. You must keep all proceeds of the sale of any products separate from your own monies and those of third parties. You hold those proceeds in trust for MIDWICH LIMITED until paid to MIDWICH LIMITED.

Payment Terms

15. Customers who have not opened a trading account with MIDWICH LIMITED (or whose trading accounts have been suspended or revoked) must pay for all products and or services supplied prior to delivery, or at the time of collection. This payment must be by credit card (see conditions below), direct deposit into MIDWICH LIMITED's account or company cheque by prior approval.
16. Trading terms for approved customers will be set by MIDWICH LIMITED after reviewing your credit application and responses supplied by your trade referees. MIDWICH LIMITED will provide a written statement of the trading terms upon establishment of your trading account.
17. Customers not complying with payment terms will have their account suspended and / or revoked and will only be able to purchase from MIDWICH LIMITED on a payment prior to delivery basis.
18. MIDWICH LIMITED reserves the right to suspend and/or revoke any trading account opened with a customer at any time and for any reason, at MIDWICH LIMITED's discretion.
19. Without limiting MIDWICH LIMITED's right to suspend or revoke trading accounts at any time and for any reason, in order to ensure your trading account with MIDWICH LIMITED is kept 'active', your account must be used at least once in any twelve (12) month period. In addition, you must spend a minimum of \$2,000 per annum through your account. If your trading account is inactive for a period of six months, or your annual spend does not reach the minimum spend level, your trading account will become dormant and your account status will be amended to 'pre-pay'. This will result in any trade purchases made by you being paid in full prior to any orders being shipped.
20. Should your account trade outside of your normal credit terms i.e. payment not made by due date, your account will be placed on credit hold. Should this occur MIDWICH LIMITED will advise you in writing that your account is suspended pending payment of outstanding invoices. Once advised, orders that you have pending in the system may be suspended if your account is not brought into order within 48 hours



21. MIDWICH LIMITED accepts credit card payments. Upon registration of a credit card account, you must provide MIDWICH LIMITED a written authorisation to debit your credit card for all charges. Credit card payments will incur an additional charge of 2.5%.
22. MIDWICH LIMITED will invoice you the price of the products:
 - a. quoted (if the order is placed pursuant to a valid quote by MIDWICH LIMITED and MIDWICH LIMITED's quotation number was specified on the order);
 - or
 - b. listed in MIDWICH LIMITED's price list current at the time of the order, Plus any delivery or freight charges, insurance, duties and taxes payable by MIDWICH LIMITED in relation to the purchase.
23. You must pay MIDWICH LIMITED's invoices within the agreed terms of your trading account, or such other date as may be specifically agreed with MIDWICH LIMITED, MIDWICH LIMITED may, at its discretion, charge default interest on amounts owing, but not paid, at the rate charged by *the Commonwealth Bank of Australia* to its customers on overdrafts in excess of \$100,000 plus 2% from the date when such payment fell due unless MIDWICH LIMITED specifically agrees to an extension of time for payment.

Delivery and acceptance

24. Delivery dates are estimates only and MIDWICH LIMITED is not liable for any loss or damage whatsoever arising if products are not delivered by the quoted date. You must make all arrangements necessary to take delivery of the products whenever they are tendered for delivery.
25. You must inspect all products on delivery and must notify MIDWICH LIMITED in writing of any damage or failure to comply with the order or invoice within fourteen (14) days from the date of delivery. If no notice is received from you within fourteen (14) days from the date of delivery, you will be deemed to have accepted the products and MIDWICH LIMITED will not have any liability to you in respect of the products, except in accordance with these terms.

Returns

26. Unless required by law, MIDWICH LIMITED reserves the right not to accept any return of products in its absolute discretion. Notwithstanding, all return of products must be approved in writing by MIDWICH LIMITED and are subject to the following terms.
27. All requests to return DOA products must be made within 7 days of delivery of products to you.
28. Without limiting its rights not to accept returns under **clause 27**, MIDWICH LIMITED will NOT accept returns for products that are:
 - a. custom made, made in accordance with your specifications, made by special order or non-standard products;
 - b. not in their original shape, form or condition;
 - c. damaged by abnormal use, faulty maintenance or not used or maintained according to the manufacturer's or MIDWICH LIMITED's instructions;
 - d. expressly sold on a non-return basis; or
 - e. damaged during the installation or fitting process.
29. Where products are returned without MIDWICH LIMITED's prior written approval, they will not be accepted and will be returned to you at your expense.
30. Unless otherwise agreed by MIDWICH LIMITED in writing, all approved returns:
 - a. must be made freight prepaid at your expense and risk and are subject to final inspection by MIDWICH LIMITED;
 - b. must be packed in their original packaging and be suitable for immediate resale; or restocking fees may apply
 - c. MIDWICH LIMITED's return approval reference and the reason for the return of the



products; and WATER

- d. Will be subject to a restocking and handling fee to be determined by MIDWICH LIMITED up to a maximum of 20% of the price of the products.
31. Until the products have been returned to and inspected by MIDWICH LIMITED, MIDWICH LIMITED will be entitled to retain the full price of the products.

Default

32. You are in default if:
- a. you fail to pay any amount owing to MIDWICH LIMITED when due;
 - b. you breach any of these terms;
 - c. you cease to carry on business;
 - d. you cease to be able to pay your debts as they become due;
 - e. you take any step to enter into an arrangement with your creditors;
 - f. any step is taken to appoint a receiver, liquidator, administrator or other like person over the whole or any part of your assets or business; or
 - g. MIDWICH LIMITED, in its sole and unfettered discretion, is of the view that your financial condition is unsatisfactory.
33. If you are in default, MIDWICH LIMITED may immediately do any or all of the following (in addition to claiming damages and any other rights it may have):
- a. require you to pay all amounts due but unpaid (together with any accrued interest) or to pay in advance of or on delivery;
 - b. suspend or cease supplying products to you; and/or
 - c. Enter your premises and repossess products for which payment has not been made.
34. You must pay all legal costs, fees and any other expenses incurred by MIDWICH LIMITED in respect of your default.

Liability

35. To the fullest extent permitted by law (including the *Trade Practices Act*):
- a. MIDWICH LIMITED excludes all conditions and warranties implied by custom, the general law or statute and is not liable for any losses or damages (including any special, indirect or consequential losses or any loss of opportunity, revenue or profits) suffered by you or your customers arising in any way out of the supply, delay in or failure to supply products, or provision of advice in relation to products; and
 - b. MIDWICH LIMITED's liability in tort, under these terms (including under any warranty) or under any non-excludable implied condition or warranty is limited to, at MIDWICH LIMITED's option, refunding the price of the products, repairing or replacing the products or the cost of repairing or replacing the products.
36. In any claim against MIDWICH LIMITED connected with the supply of products by MIDWICH LIMITED to you or any dealings between MIDWICH LIMITED and you, whether it is a claim for breach of contract, negligence or otherwise, any damages recoverable by you will be reduced to the extent that you or any of your officers, agents, employees or contractors caused or contributed to those damages.

General

37. If MIDWICH LIMITED has a right arising from your failure to comply with these terms and delays in exercising or does not exercise that right, that delay in exercising or failure to exercise is not a waiver of that right or any other right.
38. MIDWICH LIMITED will not be liable for any delays, loss or damage arising from any cause beyond its control, including but not limited to strikes, labour disputes, acts of God or governments, fires, storm, floods, earthquake, accident, wars, riots, acts of terrorism, shortage of materials or labour, utility, transportation and communication delays or failures, and any act or omission by you or any third party. In addition,



MIDWICH LIMITED's obligations will be suspended for the duration of any resulting delay.

39. If any of the provisions of these terms is illegal or unenforceable:
- a. it will be severed from these terms and will not affect the continued operation of the remaining provisions of these terms; and
 - b. The parties will attempt to replace that severed part with a legally acceptable alternative provision that meets the parties' commercial objectives.

40. Headings are for convenience only and shall not be used in construing or interpreting these terms.

41. **Warranties** - See separate MIDWICH LIMITED Warranty Policy
MIDWICH LIMITED Warranty Policy

1. Terms used within this Warranty Policy will have the same meaning as terms used in the MIDWICH LIMITED Standard Terms and Conditions.
2. Subject to these terms and the MIDWICH LIMITED Standard Terms and Conditions, MIDWICH LIMITED:
 - (a) warrants its products and services against defective performance as a direct result of inadequate packaging, faulty parts, design or workmanship for a period of twelve (12) months from the date of purchase excluding lamps
 - (b) Warrants that each of the products sold will conform to the applicable manufacturer's specifications for a period of twelve (12) months from the date of purchase or such longer period if offered by the manufacturer in respect of products sold by MIDWICH LIMITED. Excluding lamps.
3. The warranty contained in **clause 2** entitles you to the repair of faulty parts, labour and return freight charges or full replacement of defective products (or at MIDWICH LIMITED's discretion equivalent products) at no further charge in the event that MIDWICH LIMITED or one of its authorised service agents is unable to repair the defective products.
4. You may return a defective product to MIDWICH LIMITED on a back to base repair arrangement in its original packaging or a suitable equivalent. You are responsible for freight costs to MIDWICH LIMITED. Damage incurred as a direct result of inadequate packaging or damage by your courier or Transport Company is your responsibility and will not be covered by this warranty.
5. The warranty in **clause 2** will not apply if the products have:
 - a. been damaged in transit;
 - b. been modified or damaged or used in connection with other products or in any way not authorised by MIDWICH LIMITED;
 - c. been operated incorrectly in any way;
 - d. suffered physical damage due to mishandling by you or your nominees;
 - e. been operated in a damp or poorly ventilated environment;
 - f. been subject to smoke damage, vandalism, or fire damage;
 - g. been opened and/or serviced in any way by non- MIDWICH LIMITED authorised service personnel;
 - h. been affected by acts of God e.g. lightning, floods, earthquakes; or fire
 - i. been exposed to harsh or unusual conditions.
6. The warranty under **clause 2** is subject to the following conditions:
 - a. the Products must be installed in accordance with the manufacturer's instructions and any recommendations of MIDWICH LIMITED;
 - b. the Products must be installed in accordance with applicable Australian standards;
 - c. the Products must not be subject to misuse, damage or harsh or unusual conditions; and
 - d. you must report any damage or other product non-conformities to MIDWICH LIMITED as soon as such damage or non-conformity is discovered by or made known to you. Failure to do so may result in the warranty being invalid.



7. MIDWICH LIMITED reserves the right to assess eligibility for cover under these terms and conditions. MIDWICH LIMITED will not be obliged to fulfill its obligations under the warranty unless you return to MIDWICH LIMITED, freight pre-paid any defective products on which a warranty claim exists. If MIDWICH LIMITED requests, you must permit MIDWICH LIMITED to conduct tests on site in relation to such products.
8. MIDWICH LIMITED warrants all service work and equipment repairs performed by MIDWICH LIMITED or one of its authorised service agents for a period of 3 months. This warranty applies only to service and repair work outside the initial 12 month warranty period. All costs for parts, labour and return delivery will be absorbed by MIDWICH LIMITED.

Notwithstanding the above, the following individual terms also apply per brand:

Avitech, Brightsign Chief, CDT, DVE, FrontRow Calypso, HaiVision, LG Magenta Research, Next Window, Planar.

- No returns for service, warranty or other reasons will be accepted without an RMA number. Complete the form on this link to receive an RMA number by return email: : <http://Midwich Limited.co.nz/rma/>
- **Samsung Service** - Contact 0800 726 786
- **NEC Service** – <http://www.nec.co.nz/support.html>