1 Parties

1.1 **Parties.** These Reseller Terms and Conditions of Sale are between the applicable reseller (referred to as **Reseller**) and Lynx Technologies Pty Ltd (ABN 69 181 852 646), its successors and assignees (referred to as **Lynx**) and collectively the Parties. These Reseller Terms and Conditions of Sale are available at www.lynxtech.com.au (**Site**).

1.2 **Reseller terms and conditions.** These Reseller Terms and Conditions of Sale form the agreement under which Lynx supplies the Products and Services to Reseller. If Reseller has any questions, please contact Lynx using the contact details below, before placing an order with Lynx. Reseller indicates their acceptance of these Reseller Terms and Conditions of Sale by placing an order with Lynx.

2 Engagement and relationship

2.1 **Supply of Products and Services.** Lynx agrees to supply the Products and Services to Reseller to sell the Products and Services to End Users or for internal use. Reseller may describe itself as an authorised reseller of Lynx's Products and Services, but Reseller must not describe itself in any way as an employee, partner or agent of Lynx. These Reseller Terms and Conditions of Sale are not intended to create a relationship between the Parties of partnership, joint venture, agency or employer-employee. Neither Party has authority to create, assume or otherwise enter into any agreement that imposes rights or obligations on the part of the other Party.

2.2 **No exclusivity.** These Reseller Terms and Conditions of Sale are not exclusive. Lynx supplies third parties (including those who may compete with Reseller) to sell or market the Products or Services to anyone. Lynx may sell or market (whether directly or indirectly through a third party) the Products or Services at any price Lynx chooses without any obligation or liability to Reseller.

2.3 **Additional terms.** Reseller's eligibility to resell certain Products and Services may be subject to additional obligations or conditions not outlined in these Reseller Terms and Conditions of Sale, including additional training, specialisation requirements, contractual agreements with the manufacturers or developers, and other conditions.

2.4 **No agency or assignment.** The parties agree that these Reseller Terms and Conditions of Sale do not constitute Reseller as agent of, or as a partner with, Lynx. Reseller must not pledge Lynx's credit to any third party. Reseller must not assign or purport to assign the benefit of these Reseller Terms and Conditions of Sale without Lynx's prior written consent.

3 End user licence terms for Clients

3.1 **Client Terms.** Reseller will be the primary point of contact for Clients. Reseller will have a contractual relationship with each Client, under Reseller's own terms.

3.2 **Product and Services terms.** Reseller is responsible for ensuring that Clients use the Products and Services for lawful purposes and in accordance with these Reseller Terms and Conditions of Sale and any licence terms and conditions imposed by Lynx or a Vendor in relation to the Products and Services.

4 Price

4.1 **Purchase.** Reseller agrees to buy the Products and Services from Lynx and Lynx agrees to sell the Products and Services to Reseller, while these Reseller Terms and Conditions of Sale continue, at the Price, as updated by any subsequent price list.

4.2 **Change in Prices.** Notwithstanding anything contained in these Reseller Terms and Conditions of Sale to the contrary, Lynx may change the price of the Products and Services without notice in its absolute discretion from time to time.

4.3 **No restriction on Reseller's pricing.** Reseller is free to determine and set Reseller's resale pricing of the Products and Services.

5 Orders and invoicing

5.1 **Orders.** Reseller must place orders for Products and Services with Lynx in accordance with Lynx's processes and procedures, as notified from time to time including as set out on the Site.

5.2 **Time for payment.** Reseller must pay the Price specified at the time that Reseller places an order as set out on the applicable Lynx invoice, plus any applicable delivery and insurance costs that may apply. All amounts are stated in Australian dollars. In the absence of fraud or mistake, all payments made are final.

5.3 **Credit cards.** If Reseller makes a payment by debit card or credit card, Reseller warrants that the information Reseller provides to Lynx is true and complete, that Reseller is authorised to use the debit card or credit card to make the payment, that Reseller's payment will be honoured by Reseller's card issuer, and that Reseller will maintain sufficient funds in Reseller's account to cover the Price. Bank charges associated with credit card payments will be passed on to Reseller.

5.4 **Overdue invoices.** If invoices are unpaid for 14 days past the due date for payment as set out in the Lynx invoice, Lynx may (at Lynx's absolute discretion):

(a) immediately cease providing the Products and Services, and recover, as a debt due and immediately payable from Reseller, Lynx's additional costs of doing so;

(b) charge interest at a rate equal to the Reserve Bank of Australia's cash rate, from time to time, plus 6% per annum, calculated daily and compounding monthly, on any such amounts unpaid after the due date for payment as set out in the Lynx invoice; and/or

(c) access any premises where the Products are located to allow Lynx (or our personnel) to recover or repossess any Products which we retain title to

5.5 **Pricing structure.** Lynx's pricing structure or payment methods may be amended from time to time in Lynx's sole discretion.

5.6 **Not included in Price.** Unless otherwise agreed between the Parties, the Price does not include any taxes, handling, shipping, transportation, duties or other charges or fees. Reseller is responsible for all applicable fees and all federal, state, provincial, municipal, and other government taxes on the sale and delivery of Products and Services.

5.7 **Credit.** Lynx will specify Reseller's payment terms, if any, when Reseller establishes its account. Reseller's credit line and payment terms are subject to change from time to time by Lynx. Subject to applicable law, Lynx may modify, increase, decrease or terminate Reseller's credit privileges and terms at any time without prior notice to Reseller. Lynx may require that the directors of the Reseller, execute a director's personal guarantee in a form provided by Lynx. Reseller certifies that the information it furnished to cause Lynx to extend credit and sell Products and Services to Reseller, including, without limitation, any financial statements, are true and correct and understands that Lynx intends to rely upon such information as true and correct. In addition, Lynx may apply any payment towards the satisfaction of any money due for payment by Reseller in relation to any order from Lynx made in any manner or order of priority that Lynx thinks fit and despite any purported application by Reseller.

6 Delivery

6.1 **Title and risk.**

(a) Unless otherwise advised by Lynx, risk of loss for Products and licensed Software transfers to Reseller on delivery. Risk in the Products will remain with Reseller at all times unless Lynx retakes possession of the Products in accordance with clause 6.1(e) below.

(b) If the Reseller asks Lynx to store any Products at Lynx's warehouse facilities or otherwise (**Warehoused Products**), the risk of loss for the Warehoused Products is at Reseller's sole risk.

(c) Reseller must adequately insure Warehoused Products and if requested by Lynx, provide Lynx with a copy of the relevant certificate of currency.

(d) Title in and ownership of the Products will remain with Lynx until Lynx has received payment in full for the Products.

(e) Until title to the Products has passed, Reseller expressly acknowledges and agrees to Lynx's right to enter any premises where the Products are held for the purposes of inspection and repossession of the Products. This right of entry and repossession may be exercised by Lynx or its authorised

representatives at any reasonable time, subject to applicable laws and regulations.

(f) Reseller agrees that until payment for the Products has been received in full by Lynx:
   A. Lynx's security interest in the Products automatically attaches to and extends to the proceeds of sale of the Products sold by Reseller; and
   B. Reseller is under an obligation to Lynx to account to Lynx for the proceeds of the sale of the Products sold by Reseller.

(g) Title to and ownership of Software does not pass to Reseller or the Client as Software is licensed, not sold.

6.2 **Shipping.** Shipping and delivery dates are provided as estimates only and Lynx is not responsible for any early or delayed shipment or delivery. Lynx may ship parts of an order separately. Lynx may electronically deliver Software directly to the Client upon Reseller's request.

6.3 **Risk of use.** All risk arising out of any use or storage of the Products remains with Reseller. Reseller understands and agrees that the use of the Products and Services, material or data downloaded or otherwise obtained through the use of the Products, is at Reseller's own discretion and risk and that Reseller will be solely responsible for the Products. Lynx is not responsible or liable for delays, inaccuracies, errors or omissions arising out of the use of the Products, any third party products or operating systems.

6.4 **Loss.** Reseller indemnifies Lynx from and against, any loss of and/or damage caused to the Products after the Products are delivered and/or downloaded by Reseller or Reseller's representative.

6.5 **Delivery.** Unless otherwise agreed, Lynx will choose the common carrier. Reseller is responsible for inspecting the packages upon delivery and must note any visible damage on the proof of delivery (**POD**) or other delivery receipt Reseller may be requested to sign. Lynx will not be responsible for any visible shipping damages not noted on the POD or delivery receipt. Reseller must notify Lynx within 3 days from delivery if Reseller believes any part of Reseller's order is missing, wrong, or damaged. Lynx is not liable for any damage or loss to the Products when non-Lynx provided shipping method is used for shipping from the Vendor or Lynx to Reseller or a Client. Reseller must work with Reseller's designated carrier for reimbursement. In the event Reseller fails to notify Lynx with such 3 day period of any missing, wrong or damaged Products, the Products will be deemed accepted.

6.6 **Third Party Inputs.** Reseller acknowledges and agrees that:

(a) the supply of the Products may be contingent on, or impacted by, third parties, including customers, end users, suppliers, transportation or logistics providers or other subcontractors (**Third Party Inputs**); and

(b) despite anything to the contrary, to the maximum extent permitted by law, Lynx will not be responsible, and will have no Liability, for any default or breach of these Reseller Supplier Terms and Conditions or law, if such default or breach was caused or contributed to by any Third-Party Inputs. This clause 6.6 will survive the termination or expiry of these Reseller Terms and Conditions of Sale.

6.7 **Cancellation.** Subject to applicable law, Reseller may not cancel orders except with Lynx's written approval.

6.8 **No Return.** Subject to applicable law, all sales are final. The return of Products to Lynx for credit is subject to written acceptance by Lynx. Non stocked Products, built to order Products, opened, used or damaged Products and end-of-life Products will not be accepted for return or may incur a return fee.

6.9 **Multi-year Software purchases.** If Reseller purchases a multi-year software licence and related support or maintenance, and Reseller and Lynx agrees to make installation payments of the purchase price over the term of the licence, then Reseller must make all such installation payments in full and Reseller's purchase is non-cancellable over the term of the licence.

6.10 **Mistakes**. Lynx is not responsible for pricing, typographical, or other errors in any offer or quote, and reserves the right to cancel any order arising from such errors. In addition, Lynx may cancel orders due to shortage of products or materials, increases in the costs of manufacturing, or any event beyond Lynx's control.

7 Contractual lien and security interest

7.1 Reseller agrees that these Reseller Terms and Conditions of Sale and Reseller's obligations under these Reseller Terms and Conditions of Sale create a registrable security interest in favour of Lynx under the PPSA, and Reseller consents to the security interest (and any other registrable interest created in connection with these Reseller Terms and Conditions of Sale) being registered on any relevant securities register (and Reseller must do all things to enable Lynx to do so), and, to the extent the Law permits, waives its right to receive any notice (including notice of a verification statement) that is required by the PPSA, including but not limited to notices under sections 95, 118, 121, 130, 132, 135 or 157. However, this clause does not prevent Lynx from giving notice under the PPSA.

7.2 Reseller must not allow any other person to have or acquire any security interest in the Products without the prior written consent of Lynx.

7.3 In this clause 7, a '**security interest**' includes any form or lien, encumbrance or a security interest under the PPSA, and terms used in this clause 7 but not defined have the same meanings as in the PPSA.

7.4 Despite anything to the contrary in this agreement, this clause 7 will survive the termination or expiry of this agreement.

8 Resale

8.1 **Specifications.** Reseller must at all times offer for sale and sell the Products and Services according to the specifications supplied by Lynx or the Vendor to Reseller from time to time either generally or in any particular case.

8.2 **No additional warranties or representations.** Reseller must not make any representation or give any warranty in respect of the Products and Services other than those contained in Lynx's conditions of sale as current at the time of the offering for sale or the sale.

8.3 **Software.** Reseller must not alter, remove or in any way tamper with any of Lynx's or a Vendor's marks or numbers on the Products, Services or the Software, except that Reseller may include with the Products and Services a notice bearing Reseller's name and address and indicating that Reseller is the supplier of the Products and Services and is an authorised reseller for Lynx. Lynx reserves the right to direct Reseller to adopt a particular form of text for any notice under this clause.

9 Insurance

9.1 **Insurance.** Reseller (and Reseller's employees and agents) are not entitled to the benefit of any accident, third party liability, public liability or indemnity policies of insurance or workers compensation policies that Lynx may hold.

9.2 **Coverage and evidence.** Reseller must make arrangements to ensure adequate insurance coverage is affected and maintained at all times and if requested by Lynx, ensure that Lynx is nominated as an interested party on any such insurance policies. Reseller must provide Lynx with evidence of such arrangements, if requested.

10 Reseller's obligations and warranties

Reseller acknowledges and agrees that:

(a) Lynx is not the manufacturer of the Products and Services. Product and Services warranties, if any, are provided by the Vendor;

(b) Reseller has legal capacity, power and authority to enter into these Reseller Terms and Conditions of Sale and there are no legal restrictions preventing Reseller from selling the Products and Services;

(c) when selling the Products and Services, Reseller will act with due care and skill and Reseller will comply with any reasonable lawful directions given to Reseller by Lynx from time to time;

(d) Reseller will sell the Products and Services in the same condition, without alteration or modification in any way, as they were received from Lynx and must not make or offer any warranty or guarantee, or make any representation, in relation to the Products and Services, other than those warranties, guarantees or representations expressly stated in the material provided by or on behalf of Lynx or a Vendor from time to time;

(e) Reseller will act lawfully and will comply with any applicable licences, laws, regulations, industry codes of conduct, health and safety requirements and Australian standards in relation to selling the Products and Services;

(f) Lynx or the applicable Vendors own or license all Intellectual Property rights in the Products and Services. In selling the Products and Services Reseller must acknowledge Lynx or the applicable Vendors as owner or licensee of any Intellectual Property rights in the Products and Services and Reseller will not represent itself as the manufacturer or owner of any Intellectual Property rights in the Products and Services;
(g) Reseller is not aware of any actual or potential conflict of interest with Reseller selling the Products and Services (unless with Lynx's prior written consent) and Reseller must not engage in conduct that is misleading or deceptive or is likely to mislead or deceive; and
(h) Reseller has a valid ABN which has been advised to Lynx and Reseller is registered for GST purposes.

11 Lynx's obligations and warranties

Lynx warrants and represents to Reseller that throughout the Term, Lynx has:
(a) legal capacity, power and authority to enter into these Reseller Terms and Conditions of Sale; and
(b) all rights in relation to the Products and Services and to perform Lynx's obligations as set out in these Reseller Terms and Conditions of Sale.

12 Confidentiality

12.1 **Confidentiality.** Subject to clause 12.2, Reseller must:
(a) not disclose the Confidential Information to any third party at any time;
(b) use Reseller's best endeavours to protect the Confidential Information from any unauthorised disclosure;
(c) only use the Confidential Information for the purpose for which it was disclosed by Lynx and not for any other purpose; and
(d) be responsible for and assume liability in relation to all of Reseller's employees, agents, consultants and contractors to whom Confidential Information is disclosed and ensure that they maintain the confidentiality of the Confidential Information and otherwise comply with the obligations set out in these Reseller Terms and Conditions of Sale.

12.2 **Exclusions.** Reseller's obligations set out in clause 12.1 do not apply to Confidential Information:
(a) that is already in the public domain, except as a result of Reseller's breach of these Reseller Terms and Conditions of Sale; and/or
(b) received from a third party, except where there has been a breach of confidence; and/or
(c) that must be disclosed by law, provided that Reseller must only reveal so much of the Confidential Information as Reseller must by law disclose and Reseller gives sufficient notice to Lynx in order to allow Lynx to object to, or otherwise prevent, the Confidential Information being disclosed.

12.3 **This clause applies even after termination.** The obligations under this clause will survive termination of these Reseller Terms and Conditions of Sale.

13 Privacy

In performing the Services, the Parties agree to comply with the Australian Privacy Principles as set out in the *Privacy Act* 1988 (Cth) and any other applicable legislation or Privacy Guidelines.

14 Intellectual Property

(a) Reseller acknowledges that:
  (i) all Intellectual Property Rights embodied in or in connection with the Products and Services and any related documentation, parts or software are the sole property of Lynx or the applicable Vendors; and
  (ii) except as otherwise set out in a relevant licence agreement for the Products and Services, all Intellectual Property of Lynx or the applicable Vendors may only be used by the Client with the express written consent of Lynx or the applicable Vendor and only in accordance with the terms of such consent.
(b) Reseller must not use or register any trademarks, domain names, trade names or design used by Lynx or the applicable Vendor in connection with the Products and Services.

15 Term and termination

15.1 **Commencement.** These Reseller Terms and Conditions of Sale will commence on the date Lynx first accepted an order from Reseller and will continue unless terminated by either Party in accordance with these Reseller Terms and Conditions of Sale.

16 Liability and indemnity

16.1 **Indemnity.** Reseller is liable for and Reseller indemnifies and agrees to indemnify, hold harmless, release and discharge Lynx in respect of any claim, action, damage, loss, cost, charge, expense, penalty, fine or payment which Lynx suffers, incurs or is liable for as a result of:
(a) the distribution of the Products and Services by Reseller, including but not limited to any act or omission by Reseller in connection with the distribution or sale of the Products and Services;
(b) any work performed by Lynx in accordance with Reseller's specifications or as a result of the combination or use of the Products and Services with other equipment, parts or software not supplied by Lynx, and which results in the infringement of any Intellectual Property Rights;
(c) any loss, damage or injury suffered by a third party, caused by any negligence, or deliberate act, by Reseller performing under these Reseller Terms and Conditions of Sale; or
(d) any breach by Reseller (or Reseller's employees, agents or subcontractors) of these Reseller Terms and Conditions of Sale or Reseller's obligations or warranties under these Reseller Terms and Conditions of Sale.

16.2 **Limitation.** To the extent permitted by law, Lynx's maximum aggregate liability for any claim or series of connected claims under these Reseller Terms and Conditions of Sale whether based on breach of contract, tort (including negligence), statute or otherwise will not exceed an amount equal to the Price paid by Reseller to Lynx in respect of the particular order pursuant to which the liability has arisen.

16.3 **Contribution.** Each party's liability under Reseller Terms and Conditions of Sale will be reduced proportionally to the extent that the claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment is contributed to by the acts or omissions of the other Party.

16.4 **Consequential loss.** In no event will a Party be liable to the other for any Consequential Loss or any other consequential, indirect, special, incidental or punitive damages, regardless of the form of action, whether in contract, tort, statute or otherwise, even if advised of the possibility of such damages and even if the damages were foreseeable.

16.5 **Implied warranties.** Subject to applicable laws, Lynx excludes all express and implied warranties, and all material, work and services (including the Products and Services) are provided to Reseller without warranties of any kind, either express or implied, whether in statute, at law or on any other basis.

16.6 **This clause applies even after termination.** The obligations under this clause 16 (Liability and indemnity) will survive termination of these Reseller Terms and Conditions of Sale.

17 Dispute resolution

A party may not commence court proceedings relating to any dispute arising from, or in connection with, these Reseller Terms and Conditions of Sale (**Dispute**) without first meeting with a senior representative of the other party to seek (in good faith) to resolve the Dispute (unless that party is seeking urgent interlocutory relief, or the Dispute relates to compliance with this clause).

18 Force Majeure

Lynx will not be liable to Reseller or to any Client for any failure to provide Products and Services or for any other obligation under these Reseller Terms and Conditions of Sale if the failure or delay is caused or contributed to by a Force Majeure Event. If any failure to provide Products and Services or any other obligation by Lynx under these Reseller Terms and Conditions of Sale continues for a period of thirty 30 days, Lynx may terminate these Reseller Terms and Conditions of Sale and any affected order.

19 GST

The terms "adjustment event", "consideration", "GST", "input tax credit", "recipient", "supplier", "supply", "taxable supply" and "tax invoice" each has the meaning which it is given in *the A New Tax System (Products and Services Tax) Act 1999* (Cth). If GST is payable on any supply made under these Reseller Terms and Conditions of Sale, the recipient of the supply must pay an amount equal to the GST payable on the supply. That amount must be paid at the same time that the consideration is to be provided under these Reseller Terms and Conditions of Sale and must be paid in addition to the consideration expressed elsewhere in these Reseller Terms and Conditions of Sale unless it is expressed to be inclusive of GST. The recipient is not required to pay any GST until the supplier issues a tax invoice for the supply. If an adjustment event arises in respect of any supply made under these Reseller Terms and Conditions of Sale, a corresponding adjustment must be made between the supplier and the recipient in respect of any amount paid by the recipient under this clause, an adjustment note issued if required, and any payments to give effect to the adjustment must be made. If the recipient is required under these Reseller Terms and Conditions of Sale to pay for or reimburse an expense or outgoing of the supplier, or is required to make a payment under an indemnity in respect of an expense or outgoing of the supplier, the amount to be paid by the recipient is to be reduced by the amount of any input tax credit in respect of that expense or outgoing that the supplier is entitled to.

20 General

20.1 **Notices.** Any notice given under these Reseller Terms and Conditions of Sale must be in writing addressed to the relevant address as set out below. Any notice may be sent by standard post or email and will be deemed to have been served on the expiry of 3 Business Days in the case of post, or at the time of transmission in the case of transmission by email.

20.2 **Assignment.** These Reseller Terms and Conditions of Sale are personal to the Parties. A Party must not assign or deal with the whole or any part of its rights or obligations under these Reseller Terms and Conditions of Sale without the prior written consent of the other Party (such consent is not to be unreasonably withheld). Any purported dealing in breach of this clause is of no effect.

20.3 **Waiver or variation of rights.** Any failure or delay by a Party in exercising a power or right (either wholly or partially) in relation to these Reseller Terms and Conditions of Sale does not operate as a waiver or prevent that Party from exercising that power or right or any other power or right. A Party is not liable to any other Party for any loss, cost or expense that may have been caused or contributed to by the failure, delay, waiver or exercise of a power or right.

20.4 **Powers, rights and remedies.** Except as expressly stated to the contrary in these Reseller Terms and Conditions of Sale, the powers, rights and/or remedies of a Party under these Reseller Terms and Conditions of Sale are cumulative and are in addition to any other powers, rights and remedies of that Party. Nothing in these Reseller Terms and Conditions of Sale merges, extinguishes, postpones, lessens or otherwise prejudicially affects any power, right, or remedy that a Party may have at any time against the other Party to these Reseller Terms and Conditions of Sale or any other person.

20.5 **Consents and approvals.** Where these Reseller Terms and Conditions of Sale provide that a Party may conditionally or unconditionally give or withhold any consent or approval in relation to any matter in these Reseller Terms and Conditions of Sale, that Party may in its absolute discretion, and without being obliged to give reasons for doing so, withhold any consent or approval or give consent or approval conditionally or unconditionally.

20.6 **Further assurance.** Each Party must from time to time and in a timely manner do all things reasonably required of it by the other Party to give effect to these Reseller Terms and Conditions of Sale.

20.7 **Amendment.** These Reseller Terms and Conditions of Sale may only be amended by written agreement executed by all the Parties.

20.8 **Entire agreement and understanding.** In respect of the subject matter of these Reseller Terms and Conditions of Sale, these Reseller Terms and Conditions of Sale contain the entire understanding between the Parties; all previous oral and written communications, representations, warranties or commitments are superseded by these Reseller Terms and Conditions of Sale and do not affect the interpretation or meaning of these Reseller Terms and Conditions of Sale; and each of the Parties has relied entirely on its own enquiries before entering into these Reseller Terms and Conditions of Sale.

20.9 **Governing law and jurisdiction.** These Reseller Terms and Conditions of Sale are governed by the laws of New South Wales and the Commonwealth of Australia. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales.

21 Definitions and Interpretation

21.1 **Definitions.** In these Reseller Terms and Conditions of Sale:

Capitalised terms have the meaning in this clause.

Business Day means a day which is not a Saturday, Sunday or bank or public holiday in New South Wales.

Client means Reseller's customer or that customer's end users.

Confidential Information means any information or document about or in any way relating to Lynx in any medium or form that is acquired by or made available to Reseller in the course of the relationship between the Parties, including but not limited to any information or documents about the Products and Services, components, manufacturing process and technique, Lynx's business, organisational structure, activities, operating procedures, Products and Services, trade secrets and know how, finances, plans, transactions and policies.

Consequential Loss means any consequential loss, indirect loss, loss of actual or anticipated profits, loss of revenue, loss of savings, loss of opportunity, loss of goodwill, loss of customers, loss of reputation, loss of publicity, loss of data or loss of use**.**

Event of Default means: (a) Reseller does not pay any money due for payment by Reseller in accordance with these Reseller Terms and Conditions of Sale; (b) a representation, warranty or statement made or deemed to be made by a Party in these Reseller Terms and Conditions of Sale is untrue or misleading; (c) an event or series of events occur, including any material adverse change in the property or financial condition of a Party, which has or is likely to have a material adverse effect on its ability to perform its obligations under these Reseller Terms and Conditions of Sale; (d) an investigation is instituted under the *Corporations Act* 2001 (Cth) or other legislation into, or an inspector is appointed to investigate, a Party's affairs; (e) a Party is or states that it is unable to pay all its debts as and when they become due and payable; (f) a corporate Party is taken or must be presumed to be insolvent or unable to pay its debts under any applicable legislation; (g) an application or order is made for the winding up or dissolution of a corporate Party or a resolution is passed or any steps are taken to pass a resolution for its winding up or dissolution; (h)an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of a corporate Party or any action is taken to appoint any such person and the action is not stayed, withdrawn or dismissed within 5 Business Days; (i) a controller is appointed in respect of any property of a corporate Party; (j) a corporate Party is deregistered under the *Corporations Act* 2001 (Cth) or notice of its proposed deregistration is given to the corporation; (k) a distress, attachment or execution is levied or becomes enforceable against any property of a corporate Party; (l) a corporate Party enters into or takes action to enter into an arrangement (including a scheme of arrangement or deed of Company arrangement), composition or compromise with, or assignment for the benefit of, all or any class of its creditors or members or a moratorium involving any of them; (m) a receiver or receiver and manager is appointed in respect of any individual Party; (n) a petition for the making of a sequestration order against the estate of a Party is presented and the petition is not stayed, withdrawn or dismissed within 5 Business Days or a Party presents a petition against itself; (o) a Party presents a declaration of intention under section 54A of the *Bankruptcy Act* 1966 (Cth); (p) an individual Party dies; or (q) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction occurs in respect of a Party.

Force Majeure Event means any cause beyond Lynx's reasonable control (including but not limited to any act of God, war, civil unrest, acts of government, acts of terrorism, fire, floods, explosions, the elements, epidemics, quarantine, restrictions, the failure in the services or networks of other suppliers, strikes, lock-outs, plant shutdown, material shortages, or delays in transportation or delays of suppliers or subcontractors).

Law means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or

directions given by any government or similar authority with the power to bind or impose obligations on the relevant Party in connection with this agreement or the supply of the Products.

Intellectual Property includes but is not limited to:

(a) all present and future rights to intellectual property including inventions and improvements, trade marks (whether registered or common law trade marks), patents, designs, copyright, any corresponding property rights under the laws of any jurisdiction;

(b) all rights in respect of an invention, discovery, trade secret, secret process, know-how, concept, idea, information, process, data, formula or work product; and

(c) all work product developed in whole or in part by Lynx.

PPSA means *Personal Property Securities Act 2009* (Cth).

Price means the price payable for the Products and Services at the time Lynx accepts Reseller's order.

Products means the hardware and/or Software as set out in an order.

Vendor means the manufacturer or publisher of the Products and Services.

Writing or writing means hard-copy writing, or by email.

21.2 **Interpretation.** In Reseller Terms and Conditions of Sale, unless expressed to the contrary: (a) words in the singular include the plural and vice versa; (b) headings are for convenience and do not affect the interpretation of these Reseller Terms and Conditions of Sale; (c) any gender includes the other gender; (d) a reference to a clause, paragraph, schedule or annexure is a reference to a clause, paragraph, schedule or annexure, as the case may be, of these Reseller Terms and Conditions of Sale; (e) if any act which must be done under these Reseller Terms and Conditions of Sale is to be done on a day that is not a Business Day then the act must be done on or by the next Business Day; (f) a reference to any legislation includes subordinate legislation and all amendments, consolidations or replacements from time to time; (g) if a word or phrase is defined in these Reseller Terms and Conditions of Sale then any other grammatical form of the word or phrase will have a corresponding meaning; (h) a reference to a natural person includes a body corporate, partnership, joint venture, association, government or statutory body or authority or other legal entity; (i) "includes" and similar words mean includes without limitation; (j) no clause of these Reseller Terms and Conditions of Sale will be interpreted to the disadvantage of a Party merely because that Party drafted the clause or would otherwise benefit from it; (k) a reference to a Party includes the Party's legal personal representatives, successors, assigns and persons substituted by novation; (l) a reference to this or any other agreement includes the agreement, all schedules and annexures as novated, amended or replaced and despite any change in the identity of the parties; (m) a reference to a covenant, obligation or agreement of two or more persons binds or benefits them jointly and severally; (n) a reference to time is to local time in New South Wales; and (o) a reference to "$" or "dollars" refers to the currency of Australia from time to time.

For any questions or notice, please contact us at:

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Last update: (11 April 2025)