

Account Application

It is required that ALL GREEN sections on PAGE ONE are completed in FULL, the Declaration signed and this form returned to the Head Office of Datasouth PRIOR to any product and/or service being supplied.

HEAD OFFICE: Datasouth Centre, 30 Sir William Pickering Drive, P O Box 39-044, Burnside, Christchurch 8545 **Phone:** +64 3 357 0940 **Fax:** +64 3 357 0941 **Email:** accounts@datasouth.co.nz

Customer	Company Name						
	Trading as			Year Established			
	Company <input type="checkbox"/>	Partnership <input type="checkbox"/>	Sole Trader <input type="checkbox"/>	Local Body <input type="checkbox"/>	Government Org. <input type="checkbox"/>	Charitable Trust <input type="checkbox"/>	Academic Org. <input type="checkbox"/>
	Company Number	Tax Exempt #: _____ NZQA #: _____					
	GST No			Client Industry			
	Phone			Fax			
	Email			Website			
	Datasouth Business Manager:						

Address	Postal Address			Delivery Address		
	Suburb			Suburb		
	City			City		
	Postal Code			Postal Code		

Bank	Bank				Branch			
	Account	Bank <input type="checkbox"/> <input type="checkbox"/>	Branch <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Account Number <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Suffix <input type="checkbox"/> <input type="checkbox"/>			

Business Contacts	Accounts Contact Person	Name			Phone		
		Email			Mobile		
		Position					
	IT Contact Person	Name			Phone		
		Email			Mobile		
		Position					

Ownership Details	Owner/Director	Full Name					
		Address					
		Email					
		Phone			Mobile		
	Owner/Director	Full Name					
		Address					
		Email					
		Phone			Mobile		

Credit Referees	Please supply TWO TRADE credit referees. Note that references from Banks, Credit Card companies or Utility companies will not be accepted.					
	Company			Company		
	Phone			Phone		
	Contact Name			Contact Name		

ACCEPTANCE: Any instructions received by Datasouth from the Customer for the supply of Products and/or Services shall constitute a binding Contract and acceptance of the terms of business contained herein. These terms of business may change from time to time and are available on our website www.datasouth.co.nz

DECLARATION: I have read and accept the "Terms of Business" for the group of companies collectively referred to as Datasouth as detailed in this document. I confirm that the information I have given in this document is true and correct and that I am authorised to make this application. Furthermore, I authorise Datasouth to check my/our credit history and to exchange relevant information and opinion with all referees nominated.

Applicants Full Name	<input type="text"/>	Position	<input type="text"/>
Signature	<input type="text"/>	Date	<input type="text"/>

TERMS OF BUSINESS

1. DEFINITIONS

- 1.1 "Datasouth" shall mean Datasouth Business Solutions Limited, Datasouth Finance Limited and/or Synergy Business Solutions Limited or any employees, agents or duly authorised representatives thereof.
- 1.2 "Contract" shall mean the supply of Products and/or Services from Datasouth to the Customer in accordance with these terms of business.
- 1.3 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing Products and/or Services from Datasouth.
- 1.4 "Products" shall mean:
 - 1.4.1 All goods, hardware, software, equipment or products of the general description specified on any invoice and supplied by Datasouth to the Customer; and
 - 1.4.2 All goods or products supplied by Datasouth to the Customer; and
 - 1.4.3 All inventory of the Customer that is supplied by Datasouth; and
 - 1.4.4 All goods or products supplied by Datasouth and further identified in any invoice issued by Datasouth to the Customer from time to time, and which invoices are deemed to be incorporated into and form part of this Contract; and
 - 1.4.5 All goods or products that are marked as having been supplied by Datasouth or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Datasouth; and
 - 1.4.6 All of the Customer's present and after-acquired goods or products that Datasouth has performed work on or to or in which goods or products or materials supplied or financed by Datasouth have been attached or incorporated.
- 1.4.7 The above descriptions may overlap but each is independent of and does not limit the others.
- 1.5 "Services" shall mean all services and advice provided by Datasouth to the customer and shall include without limitation the provision of installation services, remedial services, fault diagnosis services, labour charges or any fee or charge associated with the supply of Products and/or Services by Datasouth to the Customer.
- 1.6 "Price" shall mean the cost of the Products and/or Services as agreed between Datasouth and the Customer and includes all disbursements eg charges Datasouth pay to others on the Customer's behalf subject to clause 4 of this Contract.
- 1.7 "PPSA" shall mean The Personal Property Securities Act 1999 and any amendments to it.

2. ACCEPTANCE

- 2.1 Any instructions received by Datasouth from the Customer for the supply of Products and/or Services shall constitute a binding Contract and acceptance of the terms of business contained herein. These terms of business may change from time to time and are available on our website www.datasouth.co.nz

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises Datasouth to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this Contract, or marketing any Products and/or Services provided by Datasouth to any other party.
- 3.2 The Customer authorises Datasouth to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1 Where no price is stated in writing the Products and/or Services shall be deemed to be sold at the then current amount charged for such Products and/or Services sold by Datasouth at the time of delivery of the said Products and/or Services.
- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Products and/or Services that is beyond the control of Datasouth between the date of the Contract or request for the supply of Products and/or Services (whichever may be applicable) and date of delivery of the Products and/or Services.

5. PAYMENT

- 5.1 Payment for Products shall be made in full without deduction or set-off for any reason on the date of delivery, and payment for Services shall be made without deduction or set-off for any reason on the 20th day of the month following the date of the invoice ("the due date").
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by Datasouth in the enforcement or attempted enforcement of any rights, powers of remedies contained in this Contract shall be paid by the Customer, including any reasonable solicitor's fees (on a solicitor-client basis) or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5 A deposit may be required.
- 5.6 Any provision for a "pay when paid" clause or a "pay if paid" clause shall not apply to Datasouth when Products and/or Services are provided by it to the Customer.
- 5.7 If payment is made by credit card, then Datasouth may recover the credit card fees or other charges incurred.
- 5.8 Where any payment has not been made by the due date, Datasouth may withhold the supply of Products and/or Services at its sole discretion.

6. QUOTATION

- 6.1 Where a quotation is given by Datasouth for Products and/or Services to a Customer:
 - 6.1.1 Unless otherwise agreed the quotation shall be valid for seven (7) days from the date of issue; and
 - 6.1.2 The quotation shall be exclusive of goods and services tax or freight costs unless specifically stated to the contrary; and
 - 6.1.3 Datasouth reserves the right to alter the quotation because of circumstances beyond its control.
- 6.2 Where Products and/or Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Products and/or Services.

7. RISK AND DELIVERY

- 7.1 The Products and/or Services remain at Datasouth's risk until delivery to the Customer.
- 7.2 Delivery of Products and/or Services shall be deemed complete when Datasouth, or an agent including a manufacturer, gives physical possession of the Products and/or Services directly to the Customer or possession of the Products and/or Services is given to a carrier, courier, or other bailee for purposes of transmission to the Customer.
- 7.3 The time agreed for delivery shall not be an essential term of this Contract unless the Customer gives written notice to Datasouth making time of the essence and provided always that Datasouth accepts in writing that time shall be of the essence.
- 7.4 Where Datasouth delivers Products and/or Services to the Customer by instalments and Datasouth fails to deliver or supply one or more instalments the Customer shall not have the right to cancel the Contract but shall have the right to claim compensation as a severable breach.
- 7.5 The Customer will ensure that Datasouth is provided with reasonable access to the delivery address together with adequate room for unloading. The Customer indemnifies Datasouth against all costs and liabilities Datasouth incurs with or arising out of the delivery or in unloading.

8. AGENCY

- 8.1 The Customer authorises Datasouth to contract on its behalf either as principal or agent for the provision of Products and/or Services that may form the whole or part of the subject matter of this contract.
- 8.2 Where Datasouth enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this Contract and the Customer agrees to pay any amounts due under the former contract.

9. TITLE AND SECURITY

- 9.1 Title in any Products and/or Services supplied by Datasouth passes to the Customer only when the Customer has made payment in full for all Products and/or Services provided by Datasouth and of all other sums due to Datasouth by the Customer on any account whatsoever.
- 9.2 The Customer hereby grants Datasouth a security interest pursuant to the PPSA over the Products and all of the Customer's present and after-acquired personal property as collateral for all monies owing by the Customer to Datasouth for the supply of Products and/or Services and any other monies that become payable under this Contract.
- 9.3 The Customer agrees that Datasouth's rights in respect of the Products (and proceeds of the same) continue in respect of any goods with which the Products supplied become part of or are co-mingled with and extend further to include any moneys wherever held which are the proceeds of any sale of the Products supplied prior to full payment being made in respect of the same by the Customer to Datasouth.
- 9.4 The Customer shall insure and keep insured the Products to the full price payable against all risks until all payment in full for the Products has been received by Datasouth.

10. LIABILITY

- 10.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Datasouth which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Datasouth, Datasouth's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 10.2 Except as otherwise provided by clauses 11.1-11.5, Datasouth shall not be liable for:
 - 10.2.1 Any loss or damage of any kind whatsoever including loss of profits and consequential loss whether suffered or incurred by the Customer or another person and whether in Contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products and/or Services provided by Datasouth to the Customer; and
 - 10.2.2 The Customer shall indemnify Datasouth against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Datasouth or otherwise, whether or not brought by any person in connection with any matter, act, omission, or error by Datasouth its agents or employees in connection with the Products and/or Services.

TERMS OF BUSINESS

11. WARRANTY

- 11.1 The warranty period for Products supplied by Datasouth to the Customer is for the period of any manufacturer's warranty. The warranty period is measured from the date of delivery.
- 11.2 Any claim under a manufacturer's warranty shall only cover the repair or replacement costs as detailed in the manufacturer's warranty, and the Customer acknowledges that such warranty shall not cover any of Datasouth's labour costs or charges relating to the diagnosis of any faults or defects. The Customer shall pay the labour costs or charges incurred by Datasouth associated with the diagnosis of any faults or defects.
- 11.3 Any warranty provided by Datasouth under this Contract shall not assure uninterrupted operation of the Products and/or Services.
- 11.4 Any warranty provided by Datasouth under this Contract is conditional upon:
 - 11.4.1 The use of Products and/or Services by the Customer in accordance with the information, instructions and specifications supplied by Datasouth;
 - 11.4.2 The use of Products and/or Services only for the purpose for which they were designed.
- 11.5 Any warranty provided by Datasouth under this Contract shall be invalid if:
 - 11.5.1 Any fault, damage or defect in the Products and/or Services is the result of alterations or modifications to the Products and/or Services and such alterations or modifications were not authorised in writing by Datasouth;
 - 11.5.2 Any fault, damage or defect in the Products and/or Services is the result of the use of other hardware, software, equipment or products in combination with the Products and/or Services supplied by Datasouth and such use was not authorised in writing by Datasouth;
 - 11.5.3 Any fault, damage or defect in the Products and/or Services has been caused by power surges or user error.
- 11.6 Any other written warranty that Datasouth may agree to provide the Customer shall also form part of this Contract.
- 11.7 No representation, condition, warranty or promise whether expressed or implied by law or otherwise whatsoever applies to the Products and/or Services except where Products and/or Services are supplied pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this Contract.
- 11.8 Datasouth does not provide any warranty that the Products and/or Services are fit and suitable for the purposes for which they are required by the Customer and shall not be liable if they are not.

12. COPYRIGHT, TRADE MARKS & INTELLECTUAL PROPERTY RIGHTS

- 12.1 The Customer acknowledges that all the intellectual property rights in the Products and/or Services (including but not limited to copyright, trade marks, patents, confidential information and identifying trade names) are the sole and exclusive property of Datasouth. The Customer shall not in any way question or dispute the ownership by Datasouth of any such intellectual property rights.
- 12.2 The Customer shall not obtain, either under this Contract or by reason of its use of the Products and/or Services, any right to copy the materials comprising the Products and/or Services.
- 12.3 The Customer may use the Products and/or Services for the purpose(s) for which they were intended and supplied by Datasouth upon receipt of payment in full of the Products and/or Services. Datasouth may, at its sole and absolute discretion, assign any intellectual property rights to the Customer which may attach to the Products and/or Services.
- 12.4 Any modifications, enhancements or updates to the Products and/or Services, whether carried out by Datasouth or any other person, shall remain the sole and exclusive property of Datasouth. The Customer agrees to indemnify Datasouth against all liabilities, costs and expenses which Datasouth may incur as a result of any use of such modified, enhanced or updated Products and/or Services involving infringement of any proprietary or other intellectual property rights.

13. CONFIDENTIAL INFORMATION

- 13.1 All information, data, drawings, specifications, documentation, software listings, procedures, source or object code which Datasouth makes available to the Customer relating to the Products and/or Services are proprietary and confidential. The Customer shall not disclose it directly or indirectly to any third party without Datasouth's prior written consent.
- 13.2 The Customer agrees that it shall not itself or through any subsidiary, agent or third party copy, decompile, sell, lease, license, sub-license or otherwise deal with the Products and/or Services or any variations, modifications, copies, releases, versions or enhancements of the Products and/or Services without Datasouth's prior written consent.
- 13.3 The Customer agrees that it shall not itself or through any subsidiary, agent or third party have any software or other program written or developed for itself based upon any confidential information supplied to it by Datasouth.

14. CONSUMER GUARANTEES ACT

- 14.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products and/or Services from Datasouth for the purposes of a business in terms of section 2 and 43 of that Act.
- 14.2 Should Datasouth breach any of its obligations to a Customer where such Customer is deemed to be a "consumer" for the purposes of the Consumer Guarantees Act, then Datasouth's liability to that Customer shall be limited to the greater of either:
 - 14.2.1 The costs of replacing the Products in respect of which the obligation has been breached with product of equivalent specification; or
 - 14.2.2 The price for those Products and/or Services paid by the Customer.

15. CANCELLATION

- 15.1 Once an order has been accepted by Datasouth, it can only be cancelled, varied or suspended (whether in whole or in part) upon the following terms and conditions.
 - 15.1.1 No cancellation, variation or suspension will be effective or recognised unless, and only to the extent that Datasouth agrees in writing to such cancellation, variation or suspension;
 - 15.1.2 The Customer agrees to accept delivery of all Products held by Datasouth in respect of such order and all Products in transit to or subsequently delivered to Datasouth for such order;
 - 15.1.3 The Customer agrees to pay all costs, expenses and liabilities incurred by Datasouth in consequence of the cancellation, variation or suspension of the order;
 - 15.1.4 Subject to clause 15.1.1 above, Datasouth will only accept the return of Products which are in original condition, unopened (with any seals or shrinkwrap intact) and undamaged. Datasouth can only accept the return of opened items if they are faulty.

16. EQUIPMENT & SOFTWARE MAINTENANCE & SUPPORT

- 16.1 These terms of business relate exclusively to the supply of Products and/or Services. In the event that the Customer wishes to purchase any maintenance or support services to operate the Products and/or Services, the Customer agrees to enter into an exclusive separate maintenance and support agreement with Datasouth.

17. DATA BACK-UP & SECURITY OF COMPUTER SYSTEMS

- 17.1 The Customer acknowledges and agrees that it will:
 - 17.1.1 Initiate and maintain effective systems to back-up all information and data inputted to the Customer's computer systems (including the Products and/or Services); and
 - 17.1.2 Install and/or maintain appropriate security measures (including software protection) to protect the Customer's computer systems (including the Products and/or Services) from security breaches, bugs or computer viruses.
- 17.2 Under no circumstances will Datasouth be liable in contract, tort or any other principle of legal liability, or to compensate the Customer for any loss, injury, or damage whatsoever (including but without limitation consequential loss or damage, loss of profit, business, revenue, good will or anticipated savings) arising directly or indirectly from any failure by the Customer to:
 - 17.2.1 Back-up such information and inputted data as provided in clause 17.1.1 above (including any such loss, injury or damage to back-up copies);
 - 17.2.2 Install and/or maintain appropriate security measures as provided in clause 17.1.2 above.

18. INTERMITTENT FAULTS

- 18.1 Due to the nature of computer equipment and software, the Customer acknowledges and agrees that from time-to-time Datasouth may be required to examine, investigate or diagnose intermittent faults which may arise from the Customer's use of the Products and/or Services. Datasouth does not warrant that the Customer's use of the Products and/or Services will be uninterrupted. The Customer must immediately notify Datasouth of such intermittent faults. The Customer agrees to meet Datasouth's then applicable charges for examining, investigating or diagnosing intermittent faults (including travelling time or associated expenses), except where such charges are covered by a manufacturer's warranty.
- 18.2 The Customer undertakes with Datasouth that the Customer will not permit any unauthorised third person to examine, investigate, diagnose or repair any faults with the Products and/or Services without the prior written consent of Datasouth. The Customer further undertakes that it will be fully responsible for all Datasouth's costs of rectifying the Products and/or Services should any such unauthorised action(s) take place.

19. MISCELLANEOUS

- 19.1 Datasouth shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 19.2 Failure by Datasouth to enforce any of the terms and conditions contained in this Contract shall not be deemed to be a waiver of any of the rights or obligations Datasouth has under this Contract.
- 19.3 If any provision of this Contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 19.4 The Customer shall not assign all or any of its rights or obligations under this Contract without the written consent of Datasouth.
- 19.5 Where these terms of business are at variance with the order or instructions from the Customer these terms of business shall prevail.
- 19.6 If required by Datasouth the Customer will store Products and/or Services supplied by Datasouth in a way that enables them to be identified as having been supplied by Datasouth.

20. UNSOLICITED ELECTRONIC MESSAGES ACT 2007

- 20.1 It is acknowledged that the client consents to receiving email, instant messaging, SMS and MMS (text and image-based mobile phone messaging) of a commercial nature.