



Terms and Conditions of Supply

Computer Products and Services (July 2005)

Following are the Terms and Conditions governing the supply of computer hardware, software and components (Products) and related services including maintenance and support (Services) by Crunch IT Pty Ltd and the acquisition of those Products and Services by Clients of Crunch IT.

1 Definitions

- a Crunch IT Pty Ltd ABN 71 114 268 825 is hereafter referred to as Crunch IT.
- b The company or person purchasing the Products or Services is hereafter referred to as the 'Client'.

2 Scope

- a These Terms and Conditions apply to all contracts of sale entered into between Crunch IT and the Client unless amended in writing and signed by an authorised officer of Crunch IT.
- b By accepting deliveries of any order placed with Crunch IT, the Client accepts the terms and conditions contained herein.

3 Quotations

All prices quoted for the supply of Products and/or Services are valid for 14 days. Quotations are based on current costs and are subject to amendment by Crunch IT to meet any cost variation or general price change between the date of quotation and the date of execution of the order. Crunch IT will advise the Client of any such amendment prior to delivery.

4 Orders

- a Orders are to be in writing and Crunch IT shall have no liability until the Client has placed a written order in terms acceptable to Crunch IT. Orders communicated electronically shall have the same status as written orders.
- b All orders are deemed to have been made by the Client and accepted by Crunch IT subject to these Terms and Conditions as augmented by any express terms and conditions which accompany the Products.
- c Orders can be cancelled only with the approval of Crunch IT. In the event that Crunch IT accepts the cancellation of any order placed with it, Crunch IT will be entitled to charge a reasonable fee for any work done in relation to the cancelled order plus any restocking fees charged by the suppliers of the Product(s) appearing on the cancelled order.

5 Payment for Products and Services

- a The Client undertakes to pay for purchases at the time the order is placed except where Crunch IT has agreed in writing to provide an approved credit facility.
- b Credit terms of payment for purchases are strictly 14 days net from date of invoice and are established for the sole purpose of allowing the Client reasonable time to prepare documents and transfer funds to Crunch IT. Crunch IT reserves the right to cancel the Client's credit facility at any time.
- c Should any amount be overdue for payment on the Client's credit facility then all outstanding amounts will become due and payable on demand.
- d In the case of overdue payments Crunch IT is entitled to charge a handling fee of \$50 /month plus interest applied to the overdue amount of 0.045% per day in respect of any period during which such payments are overdue.
- e In the case of default on payment for Product(s) or Services as invoiced, Crunch IT shall be entitled to charge the Client all collection costs including legal expenses, debt collection commissions, interest and any other charges incurred in obtaining payment.
- f By applying for a credit facility with Crunch IT and signing the personal guarantee, the Client (where the Client is a natural person) or the director(s) (where the client is a company) agree to be personally liable for the payment of all sums owed to Crunch IT by the Client.

6 Good and Services Tax (GST)

Unless otherwise indicated prices are exclusive of the GST or other taxes that, where applicable, will be added to the invoiced amount unless the Client provides Crunch IT with an approved tax exemption certificate.

7 Title and Risk

- a Legal title to Product(s) sold remains vested in Crunch IT until payment for the Product(s) has been received in full. Legal title to software is limited to a licence to use the Product(s) based on the copyright holder's conditions.
- b The risk of loss of or damage to Product(s) ordered by the Client passes to the Client when the Product(s) leave Crunch IT's premises for delivery.
- c The Client is responsible to arrange its own insurance cover for products in transit if required. Crunch IT accepts no responsibility for Product(s) lost or damaged in transit.

8 Delivery

- a All freight charges for the delivery of products are to be paid by the Client.
- b Crunch IT is not responsible for any consequential loss or damage suffered by the Client as a result of any delay or failure to effect delivery of Product(s).

9 Warranty

All products purchased from Crunch IT are covered by the applicable manufacturer's warranty and Crunch IT does not supply any additional warranties. The Client must refer to the warranty details stated on the product or in its associated documentation.

10 Advice

Any advice, recommendation, assistance or service provided by Crunch IT in relation to the performance, application or appropriateness of a Product is given in good faith. Crunch IT will not be liable for any loss or damage flowing from the Client's decision to act upon such advice.

11 Claims

Any claims in reference to ordered Product(s) and/or Services will be recognised only if made in writing within 7 days from delivery.

12 Severability

In the event that one or more of these Terms and Conditions are not legally enforceable, the remaining Terms and Conditions shall remain valid and enforceable between the Client and Crunch IT.

13 No Waiver

Crunch IT's failure to insist upon strict performance of any provision of these Terms and Conditions shall not be deemed to be a waiver of its rights and remedies on any subsequent default by the Client in the performance of or compliance with any of these Terms and Conditions.

14 Exclusion of Liability

- a In addition to any applicable legislation, these Terms and Conditions state the entire liability of Crunch IT and the Client to one another and the extent of each party's liability for any claim.
- b Crunch IT does not exclude or limit the application of any statute (including the Trade Practices Act 1974) where to do so would contravene the statute or cause any part of this agreement to be void (a Non-excludable Condition).
- c For a breach of any Non-excludable Condition (other than one implied by Section 69 of the Trade Practices Act 1974) Crunch IT's total liability to the Client is limited, at Crunch IT's option, to any one of: refunding the amount paid by the Client or supplying, repairing or replacing the Product(s) or supplying again, the Service(s) in respect of which the breach occurred.

15 Consequential Loss

Crunch IT hereby expressly excludes to the extent permitted by law all liability (arising in contract or in tort or however otherwise arising) for consequential loss, injury or damage:

- a Caused by or arising out of the operation of the Product(s).
- b Due to fair wear and tear, negligence or improper operation of the Product(s).
- c Due to any other operation or handling of the Product(s) that is not strictly in accordance with the manufacturer's written instructions.

16 Force Majeure

Crunch IT shall incur no liability whatsoever for any loss, injury or damage (consequential or otherwise) arising directly or indirectly from fire, accident, industrial dispute, civil disturbance or any other occurrence beyond the reasonable control of Crunch IT that interferes with the supply of Product(s) and/or provision of Service(s), or interferes in any other way with Crunch IT's ability to perform its obligations under these Terms and Conditions.

17 General

- a These Terms and Conditions between Crunch IT and the Client supersede all prior negotiations, agreements, understandings and commitments between Crunch IT and the Client in relation to the supply of Product(s) and Services.
- b If a dispute arises concerning these Terms and Conditions then the dispute must first be referred for mediation in accordance with the Australian Commercial Disputes Centre Mediation Guidelines.
- c The proper law of all contracts arising between Crunch IT and the Client is the law of the State of Victoria and the Commonwealth of Australia. In the event that mediation fails, the parties agree that all claims and disputes relating to the Products or Services sold shall be determined in the Court of competent jurisdiction nearest the city of Melbourne.
- d Typographical and clerical errors on any documents prepared by Crunch IT relating to contracts of sale are subject to revision and correction.