



bio-strategy
delivering technology

Bio-Strategy Limited
PO Box 303385, North Harbour
Auckland 0751, New Zealand
T: +64 9 969 9150 / 0800 34 24 66
F: +61 9 969 9151
E: info@bio-strategy.com
W: www.bio-strategy.com

Bio Strategy Limited Terms and Conditions of Sale

We, Bio-Strategy Limited (the "company") will supply you, the customer, with goods on these terms unless we have agreed in writing to different terms.

Definitions

- 1.1 "Goods" shall include without limitation:
- 1.1.1 any goods supplied by the company to the customer;
 - 1.1.2 any inventory of the customer that is supplied by the company;
 - 1.1.3 any goods supplied by the company and further identified in any invoice issued by the company to the customer, which invoices are deemed to be incorporated into and form part of these terms and conditions;
 - 1.1.4 any goods that are marked as having been supplied by the company or that are stored by the customer in a manner that enables them to be identified as having been supplied by the company.
 - 1.1.5 any of the customer's present and after-acquired products that the company has performed work on or to in which goods or materials supplied or financed by the company have been attached or incorporated.
- 1.2 "Price" shall mean the cost of the Goods provided as agreed between the company and the customer and will be our current price at the date of order unless subject to a Quotation. The Price shall be exclusive of GST and any other taxes, duties or levies.
- 1.3 "Quotation" shall mean a quotation provided by the company pursuant to clause 6 of these terms and conditions which shall include (in addition to those matters set out in clause 6):
- 1.3.1 a specific description of the Goods to be provided to the customer plus any special conditions relevant to the provision of the Goods (if any); and
 - 1.3.2 a provision to the effect that the Quotation shall (save for special conditions set out in the Quotation relevant to the supply of the Goods) be subject to these terms and conditions.
- 1.4 "Services" shall include all services and/or advice provided by the company to the customer and shall include without limitation the provision of installation of Goods, servicing and maintenance, technical advice or assistance and all charges for time and attendances, hire charges, insurance charges, or any fee or charge associated with the supply of Goods by the company to the customer.

Acceptance

- 2.1 All sales are subject to and expressly conditioned upon the terms and conditions contained herein, and

upon customer's assent thereto. The terms and conditions contained herein will be controlling, and any additional and/or inconsistent terms and conditions set forth in any acknowledgment, purchase order, or acceptance documents requested from and/or provided by customer are expressly rejected. No variation of these terms and conditions will be binding upon the company unless agreed to in writing and signed by an officer or other authorized representative of the company.

Specifications

- 3.1 Product specifications are subject to change without prior notice.

Price

- 4.1 Unless we agree otherwise, our prices are subject to change without notice.
- 4.2 Unless specified in our invoice, all Prices exclude freight, packaging, delivery and travel charges, and goods and services tax, all of which the customer must pay.
- 4.3 Our Prices may be increased if we incur higher freight, insurance or import charges or higher foreign exchange costs after an order is placed or if we incur extra costs because you did not provide us with information or licences by the time we specified.

Payment

- 5.1 Unless otherwise agreed, payment for Goods and/or Services shall be made in full on or before the 20th day of the month following the date upon the invoice.
- 5.2 Should you fail to pay your invoices by the due date set out in clause 5.1 above then:
- 5.2.1 we may require you to compensate us by making payment to us on demand of interest (as liquidated damages) on the amount due from the due date until the date of payment at a rate equal to 15% per annum; and
 - 5.2.2 you shall pay all our costs and expenses (including legal costs) which may be incurred in the recovery or attempted recovery of the overdue amounts from you.
- 5.3 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment, or part thereof until such negotiable instrument is honoured in full respecting the amount entered upon its face.
- 5.4 Prior to the supply of Goods and/or Services, we may require a deposit from you.

Quotation

- 6.1 Where a Quotation is provided by us for Goods and/or Services:



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- 6.1.1 Unless otherwise agreed, the Quotation shall be valid for thirty (30) days from the date of issue.
- 6.1.2 The Quotation shall be exclusive of GST unless otherwise stated in writing; if any supply under or in respect of these Terms and Conditions becomes subject to GST, you must pay, at the same time and in the same manner, the amount of the GST which is paid or payable for the supply. The company will provide tax invoices that are necessary to ensure that you can claim any input tax credit in relation to any GST payable in respect of any supply.
- 6.1.3 We reserve the right to vary the Quotation due to a change in circumstances.

Title and Risk

- 7.1 Goods and Services are at your risk as soon as they have been delivered to you.
- 7.2 We remain the owners of the Goods we supply you until you have paid in full all amounts that you owe to us for all the Goods we have supplied to you.
- 7.3 While we are the owners of the Goods:
 - 7.3.1 you will always keep the Goods clearly identified as our property;
 - 7.3.2 we will still own the Goods even if you repackage them;
 - 7.3.3 you agree not to sell, assign, charge or otherwise encumber or grant any interest over any of the Goods without prior written consent of the company.
 - 7.3.4 You shall keep the Goods insured to full replacement value and shall produce evidence of such insurance without delay if requested by us.

Title and Security (Personal Property Securities Act 1999)

- 8.1 Until all sums due to us by you have been paid in full, you expressly agree that we have a purchase money security interest in all Goods to secure payment of the purchase price of those Goods and any other sums owing and you waive the right to receive verification of registration of this security interest on the PPSR.
- 8.2 Our security interest in the Goods continues in any new products into which the Goods are attached, fixed or incorporated and in any proceeds, book debts or accounts receivable arising from the sale of such new products.
- 8.3 You give us irrevocable authority to enter any premises occupied by you or on which Goods are situated at any reasonable time after default by you (or before default if we believe a default is likely) and to remove and repossess any Goods. We shall not be liable for and you hereby indemnify us in respect of any costs, damages, expenses or losses incurred by you or any third party as a result of this action, or liability either in contract or in tort or otherwise in any way whatsoever, unless by operation of Law such liability cannot be excluded. We shall then sell any repossessed Goods and credit your account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs).

- 8.3.1 Circumstances in which you are unable to pay your debts as they fall due or otherwise take any corporate action or any steps are taken or legal proceedings include but limited to: i) winding –up, dissolution, liquidation, or re-organisation, other than to reconstruct or amalgamate while solvent; ii) the appointment of a controller, receiver, administrator, official manager, trustee or similar officer of it or of any of its revenues and assets.
- 8.4 Where Goods are retained by us pursuant to clause 8.3, you waive the right to receive notice under section 120 of the Personal Property Securities Act 1999 (“PPSA”) and to object under section 121 of the PPSA in New Zealand.

- 8.5 The following shall constitute defaults by you:
 - 8.5.1 Non payment of any sum by the due date;
 - 8.5.2 You intimate that you will not pay any sum by the due date;
 - 8.5.3 Any Goods are seized by any of your creditor(s) and/or such creditor(s) intimate(s) that it/they intend(s) to seize Goods;
 - 8.5.4 Any Goods in your possession are materially damaged while any sum due from you to us remains unpaid;
 - 8.5.5 You are bankrupted, go into voluntary administration, put into liquidation or a receiver is appointed to any of your assets or a landlord distrains against any of your assets;
 - 8.5.6 A Court judgment is entered against you and remains unsatisfied for seven (7) days; or
 - 8.5.7 Any material adverse change in your financial position.
- 8.6 If the Goods subsequently become part of some other item, then nothing in these Terms and Conditions shall limit the application of sections 82 to 86 of the PPSA.
- 8.7 You agree to do all things necessary to enable the Company to register a financing statement on the Personal Property Securities Register (PPSR) and to ensure that the security interest is a first ranking perfected security interest over all Goods.

Orders and Delivery

- 9.1 All orders are to be made by your nominated representative in writing and shall include all specifications, quantities and any requirements for time or location for delivery.
- 9.2 We will be entitled to immediately cancel any order or this agreement in its entirety without being liable to you in any way if any default under clause 8.5 occurs.
- 9.3 If you have specified a delivery date, we will try to deliver the Goods and/or Services to you by that date. However:
 - 9.3.1 we will be entitled to deliver the Goods and/or Services to you after the agreed



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delivery date or cancel the order without being liable to you in any way if the delay in delivery is due to causes beyond our reasonable control; or

- 9.3.2 we may deliver the Goods to you by instalments in any quantities and each delivery will be a separate contract independent from the other deliveries.
- 9.4 You have the right to refuse delivery of goods if the shipment has visible damage and you will be required to notify the courier company and the company.
- 9.5 We will only be liable to you for shortfalls, losses, damage or failure to meet specifications where you have notified us of those matters within seventy two (72) hours of taking delivery.
- 9.6 Goods which do not meet your specifications may not be returned to us unless:
- 9.6.1 we have agreed in writing that they may be returned and provided you with a Return Authorisation Number; and
- 9.6.2 you have not had the Goods for more than 14 days; and
- 9.6.3 the Goods' containers have not been opened nor their packaging been damaged in any way; and
- 9.6.4 you will pay for the cost of returning the Goods; and
- 9.6.5 all Returns are subject to a minimum 20% restocking charge.

Exclusions and Limitations to our liability

- 10.1 Where we are permitted by law, we exclude or contract out of all statutory conditions, guarantees and warranties.
- 10.2 All Services are supplied entirely at your risk.
- 10.3 All descriptions of the Goods are only to enable their identification and do not mean that the sale of the Goods is a sale by description.
- 10.4 We warrant only that the Goods comply with the manufacturer's specifications.
- 10.5 If within 14 days after the Goods are delivered to you we are notified in writing that the Goods do not comply with the manufacturer's specifications, we will arrange at our option to:
- 10.5.1 Repair those Goods; or
- 10.5.2 Replace those Goods with Goods of comparable or superior quality; or
- 10.5.3 Pay to you damages not exceeding the invoice value of the noncomplying Goods.
- 10.6 We will not be liable to you for any indirect loss in respect of the Goods or for any delay or failure to supply the Goods.
- 10.7 We will not be bound by any representations that we may make unless they are in writing.

Health & Safety

- 11.1 You will comply with all health and safety laws and with all of our instructions in regard to the storage, handling and use of the Goods and to bring all warnings supplied by us to the attention of all persons who might be at risk from the Goods and will indemnify us for all our costs in respect of claims made against us except where those claims are

directly caused by our gross negligence or wilful default.

Intellectual Property

- 12.1 All our trademarks or other intellectual property rights in respect of the Goods remain our property and you may not use, remove, interfere with or alter them in any way.
- 12.2 We make no representation that the Goods will not infringe the intellectual property rights of any other person and will not be liable for any costs that you may incur as a result. You will notify us immediately if you receive a claim from a person alleging that it is the owner of any intellectual property rights relating to the Goods and if we consider ourselves to be affected, we shall be entitled to completely control the defence or settlement of the claim.

Proprietary Information

- 13.1 Each party (a "Recipient") shall maintain in confidence, not disclose to any third party, and not use, except for the specific purpose of performing under this Agreement, and only to such extent as may be required, all proprietary information furnished to it by the other party (a "Discloser") or any of the Discloser's employees and/or related companies (a "Discloser Affiliate") in connection with this Agreement, or derived from the Discloser or any Discloser Affiliate in performance of this Agreement, and shall return to the Discloser or a Discloser Affiliate, upon request, all copies (then in Recipient's possession) of documents and other tangible media furnished by or derived from Discloser or such Discloser Affiliate, respectively, in connection with the performance of this Agreement. The Recipient shall inform its employees, agents, and representatives of these obligations and shall require them to assume equivalent obligations. This term will survive the expiry or termination of these Terms and Conditions.

Assignment

- 14.1 You may not assign your rights or delegate your performance under this agreement without our consent in writing.

Governing Law

- 15.1 These conditions shall be interpreted and governed by the law of New Zealand.

Dispute Resolution

- 16.1 Where any dispute arises between the parties out of or in connection with this Agreement ("Dispute"), the parties will in good faith attempt to resolve the Dispute without resorting to litigation, using the procedures set out in this clause 16.
- 16.2 If the parties are unable to resolve any Dispute between them within 14 days of the Dispute arising, the Dispute shall be referred to the mediation of a single mediator who shall be a person appointed by the President of the New Zealand chapter of LEADR.
- 16.3 Subject to any right any party may have to apply to a court for any interim or preliminary relief in respect



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of the Dispute, completion or termination of the mediation shall be a condition precedent to the arbitration of the Dispute or any part of it.

- 16.4 If the parties are unable to resolve the Dispute by mediation the Dispute shall be referred to and finally resolved by arbitration by a sole arbitrator who shall be a person appointed by the President of the New Zealand Chamber of Commerce.

Amendment

- 17.1 We may amend these conditions at any time. Notice of any amendment shall be advised to you on our website and such amendment will be deemed to have taken effect and been accepted by you from the time of publication upon our website.

Electronic Messages

- 18.1 We may send commercial electronic messages to you from time to time. You are deemed to have provided consent to such messages until such time as you expressly withdraw consent.

Nature of Relationship

- 19.1 Neither party, its employees or permitted subcontractors or agents shall, under any circumstances, be considered to be an agent, partner, joint venturer or representative of the other party.

Authority to Enter Into Agreement

- 20.1 Each party represents and warrants that it is authorized to enter into this Agreement and that in so doing it is not in violation of the terms or conditions of any contract or other agreement to which it may be a party.

Force Majeure

- 21.1 In the event either party is prevented in whole or in material part from performing its obligations under this Agreement solely as a result of force majeure, circumstances beyond your or the company's reasonable control, including (without limitation) strikes, lock-outs, accidents, war, fire, flood, explosion, shortage of power, breakdown of plant or machinery, shortage of raw materials from normal source of supply, act of God or any order or direction of any government, government authority or instrumentality. Upon the prompt giving of notice to the other party detailing such force majeure event and its anticipated duration, the obligations of the party so prevented shall be excused during such period of delay, and such party shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as possible.

Export Controls

- 22.1 Products purchased or received under this Agreement are not to be exported outside of the Country of purchase.