

Terms & Conditions - Qirx Product (Goods) Sales

1. Payment and Prices

1.1 The Client agrees to purchase the Goods from Qirx Pty Limited (“Qirx”) on the terms and conditions contained herein. By placing an order with Qirx the Client agrees all Goods supplied by Qirx to the Client are supplied on these terms and conditions, and the Client’s own terms and conditions do not apply despite anything that may be stated to the contrary in any document of the Client.

1.2 The price of Goods sold, currency, foreign exchange conversions, method of payment, method of freight, insurance, and other terms shall be set out in the quote (as applicable) and/or separate agreement between the parties and unless otherwise stated will be GST exclusive. Qirx reserves the right to vary the prices stated in our quote(s) in order to take into account any increase in freight charges, product costs or cost of materials, services or exchange rate fluctuations and will notify the Client of any such changes in a revised quote.

1.3 Payment terms are 30 days after invoice date, unless reduced terms are noted on the invoice and accepted between Qirx and the Client in written correspondence, or alternate structured payment arrangements are entered into by separate agreement between Qirx and the Client.

1.4 Overdue accounts will incur an administration fee calculated at the quarterly general interest charge rates on the Australian Taxation Office website, from the due date to the date of payment. Upon demand the Client will pay expenses and legal costs (on a solicitor/agent/client basis) incurred by Qirx in the collection of overdue monies owed by the Client. The charging of an administration fee for overdue accounts shall not constitute an extension of a due date for payment or constitute a forbearance to seek recovery on the part of Qirx.

1.5 “Goods” means all hardware and software items set out on Qirx quotes, including subscriptions for software products.

1.6 Where a Qirx quote includes Goods and Qirx services, the due date for payment of the Goods will not be reliant on the delivery of Qirx services and Qirx will invoice for the Goods on delivery to the Client.

2. Purchase Orders and Quotes

2.1 These terms and conditions may be modified or added to by specific terms specified in a Qirx quote. Subject to clause 2.2, a Client’s acceptance of a quote constitutes an agreement to purchase Goods on the terms of that specific quote and these terms and conditions. Acceptance of a quote by the Client may take the form of a Client purchase order or any written communication from an authorised representative of the Client included in emails, letters, and for the avoidance of doubt any other format of electronic communication.

2.2 All quotes are based on rates and charges in effect at the time the quote is given. If rates and charges change Qirx reserves the right to change the quote(s) up to and prior to ordering the Goods for the Client. Where rates and charges change, Qirx will re-issue the quote to the Client. The Client will then need to accept the revised quote in order for Qirx to order the Goods for the Client. A quote may be withdrawn at any time by Qirx. Quotes are valid for 30 days, unless stated otherwise.

2.3 Quotes are prepared in accordance with information provided to Qirx by the Client. Qirx will not be liable nor will it be bound by the quote where the Client has provided inaccurate information, omitted information or they make variations to the information after a quote has been -provided. Every effort will be made to meet the requirements of the Client prior to Qirx ordering the Goods for the Client.

2.4 Qirx has the sole discretion to decline any order from a Client for any reason.

3. Risk and Title and Delivery

3.1 The risk in the Goods supplied by Qirx to the Client shall pass to the Client upon delivery to the Client or the Client’s agent, but ownership in them shall not pass to the Client until the Client has paid for the same and discharged all outstanding indebtedness to Qirx whatsoever.

3.2 In the event of non-payment on the due date, the Client authorises Qirx, or its servants and agent, to enter upon the Client’s premises and recover Qirx’s Goods and Qirx shall not be liable for any loss or damage to the Client or the Client’s premises caused by any such entry and recovery of Goods.

3.3 Any claim for damage in transit or shortage of delivery must be made by separate notice from the Client to Qirx immediately following the Goods being received by the Client, followed by a detailed and complete claim in writing within 2 business days of delivery. In the event of loss or destruction of the Goods in transit, the Client must advise Qirx of non-delivery in writing within 7 days of the date of planned consignment delivery date as advised by Qirx or the carrier to the Client.

3.4 Receipt by Qirx of any cheque or other bill of exchange or promissory note shall not be deemed to be payment or conditional payment until the same has been honoured or cleared and until such time shall not prejudice or affect Qirx's rights, powers or remedies against the Client and/or the Goods.

3.5 If the Client becomes unable to pay its debts as they fall due, otherwise becomes insolvent or bankrupt, ceases to carry on business, has a receiver or manager appointed, commences liquidation or is placed in statutory management, Qirx may recover possession of the Goods at any time from the Client and for that purpose the Client irrevocably authorises Qirx, its servants and agents to enter upon any land or building in which the Goods are situated.

3.6 Delivery will be made to the location specified on the quote or on the client purchase order and the Client will be liable for all freight costs. For the avoidance of doubt, the delivery address on the client purchase order will be used unless specific direction is provided by the Client to delivery to an alternative address.

3.7 Any period or dates quoted for delivery are to be regarded as approximate only and Qirx accepts no liability for any loss, injury, damage or expenses consequent upon the delay in delivery of Goods. Delay due to circumstances not reasonably within the control of Qirx shall not entitle the Client to cancel any order or to refuse to accept delivery.

3.8 Qirx and the Client hereby acknowledge that by agreeing to these terms and conditions the Personal Property Securities Act 2009 (PPSA) applies and the Client will:

- (i) grant a security interest in all present and after acquired Goods as security for all money now and in the future owing by the Client;
- (ii) agree to provide such information as is required to enable registration of a Personal Money Security Interest under the PPSA;
- (iii) agree that the security interest extends to and continues in all proceeds and accessions and is a purchase money security interest to the extent it secures all or part of the purchase price of the relevant Goods;
- (iv) agree to waive its right under section 157 of the PPSA to receive notice of any verification of any registration pursuant to the PPSA.

3.9 All Goods to be supplied by Qirx to the Client are as described on the Qirx quote agreed by the parties and the description on such Qirx quote as so agreed prevails over all other descriptions of the Goods including any specification or enquiry of the Client.

4. Freight

4.1 Default or refusal on the Client's part to take full or part delivery shall constitute delivery and acceptance for the purpose of this contract, and a return fee and or re-stocking fee will apply (see Returns and Exchanges).

5. Warranty

5.1 Qirx supplies the Goods through the manufacturer, distributor(s) and/or vendor(s), as applicable. Any warranty on Goods will be subject to specific terms and conditions set out by the manufacturer, distributor(s) and/or vendor(s), as applicable.

5.2 All statutory warranties and conditions implied by law are hereby expressly excluded, to the extent permissible.

6. Returns and Exchanges

6.1 Once Goods have been ordered by Qirx with its distributor(s) and/or vendor(s), the Client may only cancel an order with Qirx's written consent. Where such cancellation is agreed, the Client will arrange

for and cover all costs to return the Goods and ensure the Goods are insured in transit and returned in original unmarked packaging including all original documentation.

6.2 Any re-stocking fees incurred as a result of the return and or exchange of Goods will be passed onto the Client. This fee may vary between third party vendor and/or distributor.

6.3 The Client should insure the return shipment of Goods as the responsibility for damaged or lost shipments rests with the Client. The address(es) for return of Goods must be obtained from Qirx prior to shipment as the address will vary subject to the warehouse location of the originating Goods. Used or otherwise altered items not in new condition may not be eligible for a full credit. Upon receipt of the Goods, the warehouse will assess the condition of the Goods and if acceptable will return them to Inventory. All returns must be received within 30 days of the Client delivery date.

6.4 Where Goods comprise intangible components such as software, or subscription for a supply over a set period of time, the Goods generally cannot be returned or exchanged. Qirx will endeavor to work with the manufacturer, distributor, and/or vendor as applicable if the Client has requested to cancel an order after delivery to the Client. The returns for intangible Goods will be subject to vendor stipulations.

7. Liability and Indemnity

7.1 Qirx is not liable to the Client or any third party for any loss or damage arising directly or indirectly in connection with these terms and conditions, or from the use or misuse of Qirx's supplied Goods or otherwise, including (but without limitation) any financial or consequential loss or personal injury claim. This exclusion of liability applies to liability in contract, tort and any other principle or head of legal liability.

7.2 Any representation, warranty, undertaking or condition that would be implied in these terms and conditions by common law, equity, legislation, trade, custom or usage is excluded to the maximum extent permitted by law. Nothing in these terms and conditions excludes, restricts or modifies any condition, warranty, right or remedy that cannot be excluded, restricted or modified.

7.3 No action arising out of the supply of Goods by Qirx may be brought more than three months after the Client becomes aware, or reasonably ought to have become aware, of the circumstances giving rise to the action.

7.4 Qirx's liability for any other liability that has not been excluded, or breach of a condition or warranty that can not be excluded, is limited, at Qirx's option, to re-supplying or paying the cost of re-supplying services and repairing, replacing or paying the cost of repairing or replacing the Goods. Qirx's liability will exclude any indirect, incidental, special or consequential damages or loss, including loss of revenue, profits, savings or data. It does not matter whether the damage or loss was foreseeable, arose from negligence, and even if warning was given of the possibility.

7.5 The Client indemnifies Qirx against any liability at law caused by any unauthorised representation made as to the Goods quality, fitness for purpose or generally.

8. Credit Information

8.1 The Client acknowledges that Qirx may request and collect information on the Client either through a credit application or otherwise to establish the creditworthiness of the Client on an ongoing basis during the course of the Client's relationship with Qirx and authorises Qirx to do so.

8.2 The Client authorises any third party at any time to make available to Qirx any information required for such credit application or creditworthiness enquiries.

8.3 The Client may correct any information held by Qirx as to the Client's creditworthiness at any time.

8.4 In the event that the Client does not provide the necessary information to Qirx either for the purposes of a credit application or generally in terms of their business relationship, Qirx is entitled to refuse to continue to supply the Client.

9. Intellectual Property

9.1 All intellectual property rights in the Goods and/or service are and shall remain the property of Qirx, or the distributor, or the vendor as applicable.

10. Consumer Guarantees Act 1993 (CGA) and Australian Consumer Law

10.1 The Client acknowledges that the products being supplied by Qirx are being acquired by the Client in trade and that accordingly, to the extent permitted by law, the CGA and Australian Consumer Law will not apply.

10.2 Where the supply of products is to a Client who is a supplier, they covenant with Qirx that they will not make or allow to be made any statements or representations as to the quality or description of the products other than those made by Qirx.

11. Termination

11.1 Upon termination of this contract, all outstanding monies shall become immediately due and payable by the Client to Qirx.

11.2 Either party may terminate this contract up to and prior to Qirx placing on order for the Goods on the distributor(s) and/or vendor(s).

11.3 Qirx reserves the right to immediately cancel any order or the Client's right to hold a credit account if the Client becomes unable to pay its debts as they fall due, otherwise becomes insolvent or bankrupt, ceases to carry on business, has a receiver or manager appointed, commences liquidation, is placed in statutory management or breaches any of the provisions of the contract and fails to remedy the breach within ten days of receiving notice requiring the breach to be remedied.

12. Guarantee

12.1 Qirx may request a Guarantor to guarantee the obligations of the Client under the contract, entirely at Qirx's discretion.

12.2 If Qirx does request a Guarantor, no orders will be fulfilled without the guarantee being in place.

13. Resell

13.1 The Client may not resell the products to end users unless otherwise agreed, and shall not resell to any other retailer or wholesaler without the written consent of Qirx.

14 Assignment

14.1 Any acceptance of a quote by the Client or placement of an order on Qirx for Goods and any payments in relation to it shall not be assigned or transferred without the prior written approval of Qirx.

15 Miscellaneous

15.1 These terms and conditions together with the accepted order form (if any) and the quote given to the Client, constitute a contract entered into between the Client and Qirx and may only be varied in writing by agreement between the parties. For quotes greater than \$25,000 (inclusive of GST) and orders placed on Qirx by the Client, a Products Agreement or a Services and Products Agreement will refer to these terms and conditions, an accepted Client order (if any), and the quote provided to the Client which together will constitute a contract entered into between the Client and Qirx. In the event of any conflicting terms and conditions between a Products Agreement or a Services and Products Agreement (as applicable) and the terms and conditions set out herein, then the Products Agreement or the Services and Products Agreement terms and conditions will prevail. Qirx may make changes to these terms and conditions from time to time by notice to the Client, or by inclusion of varied terms and conditions attached to its Quotes. The Client is treated as having accepted any changed terms and conditions if it accepts a Quote and sends an order or enters into a Products Agreement or Services and Products Agreement with Qirx after either receiving notice of the changes or by accepting the varied terms and conditions attached to our Quote. The absence of a Products Agreement or a Services and Products Agreement does not invalidate these terms and conditions, which will apply for the order of the Goods.

Force Majeure

15.2 Qirx shall not be liable for any delay or inability to meet the Client's orders and performance under this contract if performance is made impossible due to any circumstances beyond the reasonable control of Qirx and/or because of any government action, war, strike, riots, natural disaster, pandemic, act of God or "force majeure". Qirx shall be at liberty to cancel or suspend any affected order without incurring any liability for any loss or damage resulting therefrom.

Dispute Resolution

15.3 Any dispute that arises between the parties that cannot be resolved between them, shall be referred by the party claiming the dispute, stating the subject matter and details of the dispute, to the senior management of the other party, and both parties senior management shall meet and attempt in good faith to resolve the dispute.

15.4 If senior management fail to resolve the dispute within 20 working days of notice of the dispute, either party may refer the dispute to mediation in the first instance in accordance with, and subject to, Resolution Institute Mediation Rules. If the dispute or difference is not settled within 30 days of referral to mediation (unless such period is extended by agreement of the parties), it shall be and is hereby submitted to arbitration in accordance with, and subject to, Resolution Institute Arbitration Rules. Unless the parties agree upon an arbitrator, either party may request a nomination from the Chair of Resolution Institute. Notwithstanding the existence of a dispute or difference each party shall continue to perform the agreement herein. If neither are successful in resolving the dispute either party may take such legal action as deemed appropriate or necessary to resolve the dispute.

Severability

15.5 If any term (including any clause, paragraph or phrase) in these terms and conditions is illegal or unenforceable it is to be severed. The rest of the terms will not be affected.

Governing Law

15.6 These terms and conditions are governed by, and are to be construed and take effect in accordance with, the laws of the Australian Capital Territory.