

## Bio Strategy Pty Limited Terms and Conditions of Sale

Bio-Strategy Pty Limited ABN 78 105 668 282 (“we/us/our”) will supply the customer (“you”), with goods and/or services under these terms and conditions.

occurs, we will endeavour to provide you with reasonable notice.

### 1. Definitions

- 1.1. “Goods” means:
  - 1.1.1. any goods supplied by us to you;
  - 1.1.2. any of your inventory that is supplied by us;
  - 1.1.3. any of your present and after-acquired products on which we have performed work or in which goods or materials supplied or financed by us have been attached or incorporated.
- 1.2. “Prices” means:
  - 1.2.1. the prices of the Goods;
  - 1.2.2. the prices of the Services, including all charges for time and attendances, hire charges, insurance charges, or any fee or charge associated with the supply of Goods. provided to you and will be our current prices at the time of order unless subject to a Quotation.
- 1.3. “Quotation” means a quotation provided by us pursuant to clause 5 of these Terms which shall include (in addition to those matters set out in clause 5):
  - 1.3.1. a specific description of the Goods and/or Services to be provided to you plus any special conditions relevant to the provision of the Goods and/or Services; and
  - 1.3.2. the price of those Goods and/or Services.
- 1.4. “Services” means all services and/or advice provided by us to you and shall include (without limitation) the installation of the Goods, servicing and maintenance, technical advice or assistance.
- 1.5. “Terms” means these terms and conditions, from time to time.

### 2. Acceptance

- 2.1. All sales of Goods and the provision of Services are subject to and expressly conditional upon these Terms. If you accept delivery or supply of all or a portion of the Goods or Services, you will be deemed to have accepted these Terms and they will apply to the exclusion of all other written agreements. No variation of these Terms will be binding upon us unless agreed to in writing and signed by one of our officers or other authorised representatives.
- 2.2. Completion of repair of or servicing the Goods shall constitute delivery of the Services.

### 3. Price

- 3.1. Subject to clause 18, unless we agree otherwise, our Prices are subject to change without notice.
- 3.2. Unless specified in our invoice, all Prices exclude freight, packaging, delivery and travel charges, and goods and services tax, all of which you must pay.
- 3.3. We reserve the right to increase our Prices 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. If this

### 4. Payment

- 4.1. Unless otherwise agreed, payment for Goods and/or Services shall be made to us in full on or before 30 days following the date of the invoice.
- 4.2. Should you fail to pay your invoices by the due date set out in clause 4.1 above:
  - 4.2.1. 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 1.5% per month; and
  - 4.2.2. you shall pay all our reasonable costs and expenses (including legal costs on an indemnity basis) which may be incurred in the recovery or attempted recovery of the overdue amounts from you.
- 4.3. 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.
- 4.4. We may revoke our express or implied approval for giving you credit at any time. Prior to the supply of Goods and/or Services, we may also require a deposit from you. If payment is not made by the due date, we reserve the right to not supply credit or Goods or Services to you until your account is paid.
- 4.5. We can set-off against any money owing to you amounts owed to us by you on any account whatsoever.
- 4.6. Any payments received from you on overdue accounts will be applied first to satisfy interest which may have accrued, second to reasonable expenses and legal costs, and then to principal.
- 4.7. All sums outstanding become immediately due and payable by you to us if you make default in paying any sums due to us, you become bankrupt, or commit any act of bankruptcy, compound with your creditors, have judgment entered against you in any court or, being a company, have a provisional liquidator, liquidator, receiver, receiver manager or administrator appointed, notwithstanding the provisions of any other clause in these Terms.
- 4.8. We may terminate our agreement with you immediately, and accordingly may cancel any order without being liable to you in any way if:
  - 4.8.1. You fail to pay any sum outstanding by the due date;
  - 4.8.2. You intimate that you will not pay any sum by the due date;
  - 4.8.3. 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;
  - 4.8.4. Any Goods in your possession are materially damaged while any sum due from you to us remains unpaid;
  - 4.8.5. 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;
- 4.8.6. A Court judgment is entered against you and remains unsatisfied for seven (7) days; or
- 4.8.7. There is any material adverse change in your financial position.

## 5. Quotation

- 5.1. Where a Quotation is provided by us for Goods and/or Services:
- 5.1.1. Unless otherwise agreed, the Quotation shall be valid for thirty (30) days from the date of issue;
- 5.1.2. The Quotation shall be exclusive of GST unless otherwise stated in writing; and
- 5.1.3. We reserve the right to vary the Quotation in accordance with clause 3.3 due to circumstances beyond our control inter alia that the circumstance(s) may reasonably affect our ability to complete or perform the terms of the Quotation so given.

## 6. Title and Risk

- 6.1. Goods are at your risk as soon as they have been delivered to you.
- 6.2. 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.
- 6.3. While we are the owners of the Goods:
- 6.3.1. you will always keep the Goods clearly identified as our property;
- 6.3.2. we will still own the Goods even if you repackage them;
- 6.3.3. you may sell the Goods only if you keep enough of the sale proceeds to pay us for the Goods in a separate bank account in trust for us.
- 6.3.4. you shall keep the Goods insured to full replacement value and shall produce evidence of such insurance without delay if requested by us.

## 7. Personal Property Security Interest

- 7.1. You grant a security interest in the Goods and the proceeds (as defined in the Personal Property Securities Act 2009 ('PPSA')) to secure the obligation to pay the purchase price of the goods and other of your obligations to us under this agreement (together the "Indebtedness"). You warrant that the Goods are not purchased for personal, domestic or household purposes.
- 7.2. Where the Goods and/or proceeds are not readily identifiable and/or traceable or their recoverable value is insufficient to pay the Indebtedness, the security interest shall also extend to all the Goods present and after acquired by the Customer, of which the Goods form part, to the extent required to secure the Indebtedness.
- 7.3. You waive any right to receive notice in relation to any registration or amendment to a registration on the Personal Property Security Register ('PPSR'). At your own expense, you will provide all reasonable assistance and relevant information to enable us to register on the PPSR and generally to obtain, maintain, register and

enforce the security interests created by this agreement.

- 7.4. Any payments received from you shall be deemed to be made and applied by us in the following order (unless we otherwise determine): (1) to any obligation owed by you which is unsecured, in the order in which the obligations were incurred; (2) to any obligations that are secured, but not by a purchase money security interest ('PMSI'), in the order in which those obligations were incurred (3) to obligations that are secured by a PMSI, in the order in which those obligations were incurred.
- 7.5. Until you have paid all money owing to us, you must at all times ensure that (1) all Goods, while in your possession, can be readily identified and distinguished, and/or (2) all proceeds (in whatever form) that you receive from the sale of any of the Goods are readily identifiable and traceable.
- 7.6. If the Goods are held by you as inventory (as defined in the PPSA), then you may sell or lease the Goods in the ordinary course of business. Otherwise until you have paid all money owing to us you must not sell or grant a security interest in the Goods without our written consent.
- 7.7. To the extent permissible by law, you agree that the following provisions of the PPSA will not apply and you will have no rights under them: Section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notice to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142; section 143.
- 7.8. Section 115(7) of the PPSA allows for the contracting out of provision of the PPS Act, the following provisions of the PPS Act will not apply and the Customer will not have any rights under them: section 127; section 129(2), (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.
- 7.9. Unless otherwise agreed and to the extent permitted by the PPSA, the parties agree not to disclose any information of a kind referred to in section 275(1) of the PPSA to an interested person or any other person. You waive any right you may have, or but for this clause may have had had, under section 275(7)(c) of the PPSA to authorise the disclosure of the above information

## 8. Orders and Delivery

- 8.1. 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.
- 8.2. If you have specified a delivery date, we will try to deliver the Goods and/or Services to you by that date. However:
- 8.2.1. we will not be liable for any failure to deliver the Goods and/or Services to you after the agreed delivery date or cancel the order if the delay in delivery is due to causes beyond our reasonable control; or
- 8.2.2. 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.

- 8.3. You must inspect the Goods immediately upon delivery and must within 72 hours after the date of delivery give written notice to our head office of any alleged defect, shortage in quantity, damage or failure to comply with the specifications or the Quotation.
- 8.4. Goods which do not meet your specifications may not be returned to us unless:
- 8.4.1. we have agreed in writing that they may be returned and provided you with a Return Authorisation Number; and
  - 8.4.2. you have not had the Goods for more than 14 days; and
  - 8.4.3. the Goods' containers have not been opened nor their packaging been damaged in any way; and
  - 8.4.4. you will pay for the delivery costs of returning the Goods; and
  - 8.4.5. all returned Goods are subject to a minimum 20% restocking charge.

#### 9. Exclusions and Limitations to our liability

- 9.1. To the fullest extent permitted by law, we exclude or contract out of all statutory conditions, guarantees and warranties.
- 9.2. All Services are supplied entirely at your risk.
- 9.3. 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.
- 9.4. We warrant only that the Goods comply with the manufacturer's specifications.
- 9.5. 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 determine whether the Goods are faulty or have been subject to fair wear or tear. We will arrange at our option to:
- 9.5.1. Repair those Goods; or
  - 9.5.2. Replace those Goods with Goods of comparable or superior quality; or
  - 9.5.3. Refund you the amount of the invoice value of the noncomplying Goods.
- 9.6. 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.
- 9.7. We will not be bound by any representations that we may make unless they are in writing.
- 9.8. You acknowledge and warrant that you have relied on your own skill and judgment or, alternatively, on the skill and judgment of tradesmen and professional advisers retained by you to provide advice and assistance on the suitability of the Goods for specific purposes and procedures and, in this respect, you shall indemnify us from and against any suit, claim, demand or compensation which, but for these Terms, you may have had against us.

#### 10. Privacy

- 10.1. To enable us to assess your application for credit, you authorise us: (1) to obtain from a credit reporting agency/body a consumer or commercial credit report containing personal information about you and any

- guarantors; and (2) to obtain a report from a credit reporting agency/body and other information in relation to your commercial credit activities, and (3) to give to a credit reporting agency/body information including identity particulars and application details.
- 10.2. You authorise us to give to and obtain from any credit provider named in the accompanying credit application and credit providers that may be named in a credit report issued by a credit reporting agency/body information about your credit arrangements. You understand that this information can include any information about your credit worthiness.
- 10.3. You understand that information can be used for the purposes of assessing your application for credit, assisting you to avoid defaulting on your credit obligations, assessing your credit worthiness and notifying other credit providers and credit reporting agencies of a default by you under these Terms.

#### 11. Health & Safety

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.

#### 12. Intellectual Property

- 12.1. All our trademarks or other intellectual property rights in respect of the Goods or Services remain our property and you may not use, licence, 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.

#### 13. Confidential Information

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, all confidential information furnished to it by the other party (a "Discloser") or any 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.

#### 14. Assignment

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

#### **15. Governing Law**

- 15.1. These Terms shall be governed by and interpreted according to the laws of Victoria and the parties consent and submit to the jurisdiction of the Courts of Victoria.
- 15.2. Notwithstanding that any provision of the Terms may prove to be illegal or unenforceable pursuant to any statute or rule of law or for any other reason that provision is deemed omitted without affecting the legality of the remaining provisions and the remaining provisions of the Terms shall continue in full force and effect.

#### **16. Dispute Resolution**

- 16.1. Any dispute, controversy or claim arising out of or in connection with this Agreement, including its existence, breach, validity or termination (Dispute) must be dealt with in accordance with this clause. This clause does not prevent either party from seeking urgent injunctive or similar interim relief from a Court.
- 16.2. Either party claiming that there is a Dispute must notify each other party in writing and give details of that Dispute in accordance with these Terms (Dispute Notice). Following the giving of a Dispute Notice, our Chief Executive and your authorised representative will meet and use reasonable efforts to resolve the dispute within 14 days of the giving of the dispute notice.
- 16.3. The parties must continue to comply with the Contract but no party need pay any monies in relation to the matter under dispute until it is resolved. This Item does not limit any right of termination under clauses 11 or 14.

#### **17. Equitable Charge**

You as beneficial owner and/or registered proprietor now charge in favour of us all of your estate and interest in any real property (including but not limited to any applicable land owned by you or described as the your street address in the credit application if applicable) ('Land') to secure payment of accounts rendered by us to you for the delivery and/or supply of the Goods including interest payable on these accounts and costs (including legal costs on a full indemnity basis) incurred by us and including the costs to prepare and lodge a Caveat against the Land and to remove the Caveat.

#### **18. Amendment**

We may vary these Terms by providing written notice to you (by email, conventional mail or by posting the amended Terms on our website). We will not change any Terms for an existing order that has been accepted by us; the Terms that apply to the order are the Terms that applied at the time you placed the order.

#### **19. Nature of Relationship**

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.

#### **20. Authority to Enter into Agreement**

Each party represents and warrants that it is authorised to enter into the agreement formed by these Terms 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.

#### **21. Force Majeure**

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, 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. In this event, all money due to us shall be paid immediately and, unless prohibited by law, we may elect to terminate the agreement between you and us.

#### **22. Restrictions**

You acknowledge and accept that we sell our Goods only through persons who have been authorised by us to sell specific product categories at specific locations and who comply with our Terms. Subject to the provisions of the *Competition and Consumer Act 2010*: (1) you are prohibited from selling Goods on the international market without our express written consent; and (2) we do not grant to you the exclusive right to sell our Goods. We reserve the right to authorise and/or supply additional retailers in any market area that it deems necessary to adequately cover the market.