

REAL BYTES PTY LTD ACN 620 082 706
TERMS AND CONDITIONS

DEFINITIONS

1. In this Agreement, the following definitions apply:

- (a) **"Agreement"** means this Agreement between the Parties, incorporating these Terms.
- (b) **"Company"** means Real Bytes Pty Ltd ACN 620 082 706 and its subsidiaries as defined in the *Corporations Act 2001* (Cth) and each of its servants or agents.
- (c) **"Goods"** means any products and/or goods provided or sold to You by the Company. This may be detailed in our Letter of Engagement or described in invoices.
- (d) **"Parties"** means the Company and You.
- (e) **"Price"** or **"Prices"** means the Price and/or Prices for the Goods and Services as detailed in the Quote.
- (f) **"Quote"** means the written quote given with these Terms.
- (g) **"Services"** means the services detailed in the Quote.
- (h) **"Terms"** means these Terms and Conditions.
- (i) **"Website"** means www.realbytes.com.au/.
- (j) **"You"** or **"Your"** means any person, firm, corporation, government, semi-government or local government department or authority, its successors, assignees, trustees, administrators or liquidators, to whom or to which Goods and Services are provided or sold to by the Company.

GENERAL PROVISIONS

2. Applicability and Acceptance of these Terms and Conditions

- 2.1 By entering into this Agreement, approving the Quote and/or purchasing Goods and Services from the Company, You accept and agree to be bound by these Terms.
- 2.2 The Company may make changes to these Terms from time to time to accommodate changes in law, business practice or the introduction of new Goods or Services without notice to You or by general notice on the Website.

PRICES AND CHARGES

3. Supply of Goods and Services

- 3.1 The supply of Goods and Services is contingent upon You complying with this Agreement.
- 3.2 The supply of Goods and Services by the Company is subject to availability of the Goods and Services.
- 3.3 Any order cancellation must be in writing and is subject to the Company's approval.

4. Prices

- 4.1 Unless otherwise stated, all wholesale Prices quoted are exclusive of settlement discount and GST, duty, taxes or any other statutory

charge or fee payable in connection with the sale of the Goods to You by the Company.

- 4.2 The Company reserves the right to amend rates and/or Prices from time to time with 7 days written notice to You.

- 4.3 All Prices do not include shipping and posting costs.

5. Title

Until each invoice is paid in full, ownership of all Goods supplied remains with the Company.

6. Risk

The risk of the Goods passes to You on delivery, and delivery to the carrier constitutes delivery. The Company accepts no responsibility for the Goods once they have been delivered to You.

CREDIT ACCOUNT

7. Credit Terms

- 7.1 Payment of all accounts shall be made in accordance with the payment terms noted on the invoice.

- 7.2 When making a payment, you agree:

7.2.1 to include the invoice number as the reference to ensure the payment is allocated to Your account in the correct manner; and

7.2.2 if Your payment does not reflect the statement amount, a brief note must be included regarding any variations.

- 7.3 The Company may at any time without notice, terminate or suspend Your right to purchase Goods and Services from the Company on credit and shall not be liable for any damages, costs, penalties or charges incurred by You as a result of the non-supply of the Goods and Services by the Company.

- 7.4 The Company reserves its rights to automatically suspend all accounts unpaid at fourteen (14) days from the due date for payment, no further orders will be shipped, and we will suspend all further Services to be provided to You.

- 7.5 Suspended accounts may attract a default account keeping fee of two percent (2%) per month or \$25.00 per invoice whichever is the greater amount, until the account is returned to the agreed trading terms. You agree that that this is a fair and reasonable charge and is directly relevant to the likely damage that the Company might suffer as a result of non-payment by You. Interest will be calculated on all outstanding amounts from the date of issue of the outstanding invoice.

- 7.6 All invoices shall immediately become due and payable in the event of default on payment by You of any invoice or account, regardless of whether or not some invoices may not otherwise have become due for payment.

8. Credit History

- 8.1 You hereby give the Company authority to make enquiries as to the credit and financial responsibilities of You and/or Your Directors

and/or Shareholders in order to suitably qualify Your capacity to incur debt and repay any amounts to the Company. These enquiries shall include but not be limited to obtaining reports from credit reporting agencies and references from current and/or past providers of credit to You.

- 8.2 In accordance with section 18E(8)(c) of the *Privacy Act 1988* (Cth), You acknowledge that the Company has informed You that certain items of personal information about You contained in or relating to Your Application for Credit, and permitted to be kept on a credit information file, might be disclosed to a credit reporting agency. Furthermore, You agree, in accordance with s18K(1)(b), s18K(1)(h) and s18N(1)(b) of the *Privacy Act 1988* (Cth) that use by the Company of the relevant information referred to in those sections may occur for the purpose of assessing Your credit application.

DEFAULT

9. Default

In the event that you Default on these Terms, You consent to pay the Company any costs, charges and expenses (including legal fees and costs on a full indemnity basis as a liquidated debt) incurred by the Company in connection with the entry into this Agreement, the exercise or attempted exercise of any power, right or remedy under these Terms and/or the failure of You to comply with these Terms.

MISCELLANEOUS

10. No Guarantee

The Company makes no guarantee that the investigations undertaken by the Company following a cyber incident will confirm whether data has been released to third parties.

11. Limitation of Liability

- 11.1 The Company shall not be liable for any contingent, consequential, direct/indirect or punitive damages or loss arising, in relation to the ownership or use of the Goods, whatsoever. You acknowledge this express limit or liability and agrees to limit any claim accordingly.

- 11.2 The Company shall not be liable for any loss or damage incurred as a result of:

11.2.1 Your failure to disclose all information necessary for the Company to carry out the Services;

11.2.2 Your failure to follow the recommendations provided by the Company; or

11.2.3 any data which is released following a cyber incident which occurred prior to the commencement of the Services.

- 11.3 The Company's maximum liability for any damage or loss arising in relation to the Services is the Price of those Services.

- 11.4 The Company will not be held liable for any loss or damage incurred due to a Force Majeure, which means any cause outside the parties' reasonable control, including but not limited to an act of God, government or quasi government, act or



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regulation, riot, act of terrorism, war, flood, fire, industrial disputes and epidemics or any risks to health or safety.

appropriate court having monetary jurisdiction over the matter or another jurisdiction if it is deemed appropriate by the Company.

12. Reporting

You acknowledge that, in accordance with the *Security of Critical Infrastructure Act 2018* (Cth), where You are a victim of a cyber incident and have not reported it to the Australian Signal Directorate's Australian Cyber Security Centre (ACSC) the Company obligated to report the cyber incident to the ACSC.

13. Positive Obligations

13.1 The Company must exercise due care, skill and diligence in the provision of services to You in particular, the Company must:

13.1.1 Implement, maintain and provide cybersecurity measures and SaaS and related support services, in such a manner that is in Your interest and consistent with Your operating systems, networks and data;

13.1.2 use reasonable endeavours to prevent unauthorised access of Your systems, programs, and confidential information;

13.1.3. use reasonable endeavours to prevent any potential cybersecurity threats, data loss, or data breaches which may affect You; and

13.1.4 ensure that all of Your data are encrypted according to industry-standard protocols.

13.2 Notwithstanding the foregoing, the Company is not liable for any loss, damage or costs incurred by You arising from an event beyond the reasonable control of the Company in the provision of its services to You, including but not limited to situations where You serve as the local administrator of Your device.

14. Termination

Notwithstanding any provision in this Agreement, You may Terminate this Agreement for any reason whatsoever subject to 30 business days' written notice provided to the Company. Upon termination, the Company will comply with any reasonable requests made by You regarding: (a) return, deletion or storage of any information related to You (including password and login details), (b) transfer of any relevant software licenses and (c) backup or retrieval of Your data. Upon termination, the Company will not charge any cancellation or other fee but You will be liable for the fees payable for the applicable billing month (in arrears) plus any reasonable costs for the time spent for the Company to fulfill any obligations relating to handover.

15. Jurisdiction

15.1 This Agreement is deemed to have been entered into in the State of Queensland, Australia. Any legal action arising out of, or in respect of this Agreement and/or its interpretation must be brought only in the State of Queensland or another jurisdiction if it is deemed appropriate by the Company.

15.2 The parties further agree to issue any proceedings in the Brisbane registry of the

16. Amendment

The terms contained in this Agreement are binding, and cannot be altered except by clear, written acceptance of the alteration by the Company and You.

17. Counterparts

This Agreement may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same Agreement. The Agreement may be entered into by and becomes binding on the parties named in the Agreement upon one party signing the Agreement that has been signed by the other (or a photocopy or email copy of that Agreement) and transmitting a email copy of it to the other party.

ACKNOWLEDGMENT

18. Acknowledgment

18.1 You acknowledge that You have carefully read, fully understood and agreed to be bound by all the provisions of this Agreement.

18.2 The Company will not be liable for any loss and/or damages suffered whatsoever, whether directly and/or indirectly, from Your failure to obtain independent legal advice in relation to this Agreement.

I/We the undersigned declare that all information provided to the Company for the purposes of assessing Your suitability for credit, purchase and rental is true and correct in every particular.

I/We the undersigned further acknowledge that I/we have read understand and agree to the terms of this Agreement.

COMPANY NAME

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TRADING NAME (if applicable)

.....

PRINT NAME

.....

TITLE

.....

SIGNATURE

.....

DATE

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