

I.T. Basecamp Pty Ltd

ABN 89 001 645 610

Customer Terms (“Terms”) Agreement

This Customer Terms Agreement is made between I.T.Basecamp Pty Ltd, ABN 89 001 645 610 with its principal place of business at Office 1 Level 1, 50 Owen St, Huskisson, NSW 2540 (“ITB”) and _____ ABN: _____, a corporation, partnership or sole proprietor with its principal place of business at _____ (“Customer”).

1. Definitions

In this Agreement, unless the context otherwise requires:

- a) “Agreement” means this Customer Terms Agreement;
- b) “Customer” means any individual, group of individuals, corporation, association or other legal entity that is the purchaser of the Products;
- c) “GST” means Goods and Services Tax imposed in accordance with the A New Tax System (Goods and Services Act) ACT 1999, related Acts and Regulations;
- d) “Products” means any Products (including software) or services (where applicable) as supplied to Customer by ITB and described in ITB invoice;
- e) “Sales Contract” means any sales contract or distribution agreement entered into by Customer and ITB in respect of the Products and services supplied to Customer in which these Terms are deemed to be incorporated; and
- f) “Terms” means the provisions provided under this agreement;

2. Purchase Order(s)

- a) ITB: reserves the right to exercise it’s full discretion to reject any order; (ii) may choose to cancel any accepted orders or refuse or delay shipment of any orders if Customer breaches any obligation under this Agreement; and (iii) is absolutely free from liability to any person for a failure to fill any order, any delivery delays or for any order filling errors;
- b) Purchase Orders must be made in accordance with ITB order policy as amended by ITB from time to time;
- c) ITB will not be bound by any terms attaching to Customer ’s order and, unless those terms are expressly agreed to in writing by an authorized representative of ITB, Customer agrees that those terms are hereby excluded;
- d) ITB may make partial shipments on Customer’s orders whereby these will be invoiced separately and paid for separately. This will not free Customer of its obligation to accept the remaining deliveries unless the Customer cancels the order in the circumstances and in the manner as had been previously and mutually agreed to with ITB. All risk of loss or damage in transit of any Products being returned to ITB will be borne by Customer;
- e) For available inventory, ITB may choose to allocate these at its own discretion. Customer acknowledges that that there may be delays in ITB fulfillment of Customer orders;
- f) Unless otherwise agreed in writing by an authorised ITB representative, the Customer may not cancel an order which has been accepted by ITB;
- g) If Customer’s right of order cancellation is agreed, the right must be exercised by notice in writing from Customer to ITB prior to shipment from ITB or from vendor to ITB, whichever occurs first. Should notice be received after shipment of Product from either vendor or ITB a

20% fee will be payable unless agreed otherwise in writing by an authorised ITB representative;

- h) Unless otherwise agreed between Customer and ITB, upon cancellation prior to shipment, any deposit paid by the Customer shall be forfeited to ITB.

3. Pricing

- a) The price for the Product(s) ordered and delivered pursuant to these terms and conditions are the prices set forth in the ITB Customer Price List, subject to Clause 2.a.
- b) Unless stated otherwise in these Terms (or in writing by ITB authorised representative), all prices quoted for Products are exclusive of all taxes, handling, delivery, agents' charges and any other charge, duty or impost.

4. Credit

- a) ITB may establish a line of credit on open account for the Customer upon application, which the Customer agrees not to exceed. ITB may change the line of credit should the Customer's method of payment or financial position change. The Customer consents to ITB investigating the credit history of the Customer through credit reporting agencies and other methods of sharing credit information in order to establish a line of credit. The Customer may be required to furnish ITB with their audited/management financial statements. ITB reserves the right to terminate, without cause, the Customer's right to purchase Products and services on credit or to vary the credit terms in respect of the Customer.

5. Payment

- a) Payment is required prior to delivery of the Products to Customer unless agreed otherwise in writing by an authorised ITB representative or, should ITB approve the Customer's credit subject to Clause 11, net thirty (30) days from date of invoice;
- b) Customer must pay ITB, on demand, any tax (other than income tax) payable under these Terms, any matter or thing done under these Terms or any payment, receipt or other transaction contemplated by these Terms, including any goods and services or value-added tax, customs duty, sales tax, excise duty, stamp duty, other duty, governmental charge, fee, levy or impost, together with any fine, penalty or interest payable because of a default by Customer;
- c) Customer must pay to ITB any amount Customer must pay under clause 5.b in full, despite any right of set-off that Customer may have.

6. Passing of Title

- a) Title in the Products supplied by ITB to Customer will not pass to Customer and will remain the absolute property of ITB until the full purchase price (including freight and GST) has been paid. Should the Customer fail to pay any amount when due, ITB reserves the absolute right to repossess and remove the Products. Such repossession and removal shall be without prejudice to any of ITB's other legal remedies.
- b) During such period as the risk in the Products has passed to Customer but title to the Products remains in ITB, Customer shall effect a suitable policy of insurance in the names of both Customer and ITB for the full value of the Products showing ITB as the owner of the Products and Customer as the bailee and Customer shall keep such policy current until such time as this agreement is terminated. If so requested by ITB at anytime Customer shall provide ITB with a copy of such policy.

7. Delivery

- a) Risk in the Products(s) shall pass to the Customer upon delivery as arranged at ITB Place of Business at Office 1 Level 1 50 Owen Street Huskisson, New South Wales, Australia whether such delivery is to the agent of the Customer or to a common carrier nominated by ITB. If any conditions arise which prevent compliance with delivery instructions, ITB will use its best efforts to notify the Customer of such delays;
- b) Title in the Products supplied by ITB to Customer will not pass to Customer and will remain the absolute property of ITB until such time as ITB has been paid by Customer all monies due and owing to it by the Customer in relation to any account. Title to those Products which are software remains with ITB and/or the applicable third party licensor(s) at all times;
- c) Delivery times advised to Customer are estimates only and ITB will not be liable for any loss, damage or delay suffered or incurred by Customer or its customers arising from late or non-delivery of the Products;
- d) Customer must:
 - i. in the case of all Products ordered (other than software Products), inspect such Products upon delivery to Customer 's premises; or,
 - ii. in the case of software Products, test or inspect such software Products upon those Products being authorised by ITB for downloading by Customer, and must, within 7 days of delivery or downloading (as the case may be), give written notice to ITB of any matter or thing by which Customer alleges that the Products do not accord with Customer's order. Failing such notice and to the extent permitted by law, the Products will be deemed to have been accepted by Customer.

8. Returns

- a) Customer must notify ITB in writing of any Products that are faulty or have been incorrectly shipped within 14 days from the date of the invoice relating to those Products;
- b) Returns will be subject to ITB returns policy as advised to Customer and amended by ITB from time to time;
- c) Each claim for the return of Products by Customer will be dealt with in accordance with the Returns Policy. Any substitute Products to be shipped to Customer in accordance with the Returns Policy will be sent by ITB to Customer by ordinary freight pre-paid;
- d) ITB will not be liable for any damage or defects in the Products that have been caused by the improper storage, warehousing or transport, or by any neglect, abuse or improper use, installation, maintenance or unauthorised repair of the Products;
- e) The provisions of this clause 8 do not extend to any Products which have been added to, varied, or otherwise modified by, any person other than ITB.

9. Warranty

- a) ITB will notify the Customer of any applicable manufacturers warranty in relation to the Products. Copies of Product(s) warranties are available upon request. Software Products are not warranted under these terms. Such software Products are warranted in accordance with the relevant software licenses agreements that govern their use.

TO THE EXTENT PERMITTED BY LAW, ITB AND ITS SUPPLIERS SHALL, IN NO EVENT, BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR

SPECIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, REVENUE, GOODWILL OR LOSS OF USE OR DATA) OR ANY COSTS OF SUBSTITUTE PRODUCTS ARISING OUT OF OR RELATED TO THE PRODUCTS OR ANY USE OR THE RESULTS OF ANY USE THEREOF OR OTHERWISE RELATING TO THE FUNCTIONING THEREOF, EVEN IF ITB HAD BEEN ADVISED, KNOWN OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES OR COSTS.

- b) Some territories do not allow the exclusion or limitation of incidental or consequential damages for consumer Products; in those territories, the above limitations or exclusion may not apply.

10. Limitation of Liability

- a) To the extent permitted by law, ITB shall in no event be liable to the Customer or any third party for any consequential damages whatsoever, however arising, including but not limited to: (i) any breach by ITB of any warranty or any other provision of any order or contract; or (ii) any damage to or failure of the Product(s) or any system into which Product(s) are incorporated or to which any Product(s) are connected. ITB sole liability and the Customer sole and exclusive remedy hereunder shall be, at ITB's election, the repair or replacement of any defective goods.

11. Force Majeure.

- a) Neither party shall be liable for delay in performance or for non-performance (except for monies due) occasioned by cause beyond its reasonable control, including, but not limited to acts of God, fire, flood, earthquake, unusually severe weather, war, government action, accident, labour trouble, shortages or inability to obtain materials, equipment or transportation.

12. Default

- a) Without prejudice to any of ITB's other rights under these terms, if the Customer does not pay any amount due on delivery of the Product(s) or within any approved period of credit granted in accordance with Clause 4 or if the Customer does not comply with the terms set forth herein, or fails to cure a default within thirty (30) days after notification, ITB may declare the Customer in default without further liability to Customer .
- b) ITB may then terminate this Agreement without penalty. ITB may also choose any or all of the following remedies: (i) collect interest at the annual rate of 4% above the prevailing base lending rate quoted by the Commonwealth Bank accruing daily from the date payment became overdue until ITB has received payment of the overdue amount in full, together with any interest accrued, (ii) Declare all unpaid balances, including interest, immediately due and payable without notice, (iii) Sue for and recover all payments due now or in the future and all reasonable attorneys' fees, (iv) Repossess Products(s) not paid for in full, and (v) Refuse to make further supplies to the Customer under this agreement.

13. Applicable Law

- a) This Agreement will be governed by the law of New South Wales and both ITB and the Customer consent to the New South Wales State Court jurisdiction.

14. Enforcement and Provisions

- a) Failure on any occasion by ITB or the Customer to enforce any term or condition will not prevent enforcement on any other occasion.

15. Assignment

- a) ITB may assign all or part of the payments due. The Customer may not assign its obligations pursuant to these terms and conditions without ITB's prior written consent.

16. General Provision

- a) These terms and conditions apply to all purchase order release(s) regardless of the terms and conditions of any Customer purchase order or ITB acknowledgment. Other terms will be binding only if submitted and accepted in writing by both the Customer and ITB. This agreement supercedes all previous agreements, whether oral or written, between the parties.

17. Modification and Waiver

- a) All changes to these terms and conditions must be in writing and approved by both ITB and the Customer.

18. Severability of Provisions

- a) If part of these terms and conditions is prohibited, the remainder will still be valid.

19. Software

- a) The Customer agrees that any software supplied by ITB with its Product(s) will be licensed subject to the terms and conditions of the user license agreement and that the Customer will not disturb, remove, separate the license from the software it has been packaged with by its original owner, or separate the software from the associated Product as shipped by ITB, disassemble, decompile, reverse engineer, copy, modify, prepare derivative works or otherwise change any of the software or its form.
- b) The Customer acknowledges that in the case of software Product, any refusal or failure to pay may result in cancellation of the license to use the Software Product

20. Termination

- a) This agreement may be terminated without cause by either party upon 30 days notice and with cause immediately. Any outstanding orders, whether or not partially fulfilled as at the effective date of termination must be completed by the Customer unless otherwise agreed to by the terms proposed by ITB.

21. Confidential Information

- a) ITB and Customer agree that information disclosed to the other party hereunder, identified verbally or in writing as proprietary and confidential, shall be held in confidence and not disclosed hereunder in the same manner and with the same precautions as it treats and safeguards its own proprietary information for a period of FIVE (5) years after receipt.

22. Intellectual Property

- a) Customer acknowledges that: All trademarks, copyright and other intellectual property rights ("Intellectual Property") embodied in or in connection with the Products and any related documentation, parts or software are the sole property of ITB or its suppliers; and;
- b) All Intellectual Property of ITB or its suppliers may only be used by Customer with the express written consent of ITB or its suppliers, during the continuance of this agreement, and such consent extends only to use essential for the purposes stated in it. Any licensing of Intellectual Property rights in any software Products supplied to Customer will immediately cease upon expiry or termination of the relevant license agreement that governs their use;

- c) Customer will indemnify ITB against all liabilities, damages, costs and expenses which ITB may suffer or incur as a result of work done in accordance with Customer 's specifications or as a result of the combination or use of the Products with other equipment, parts or software not supplied by ITB, and which results in the infringement of any Intellectual Property of any person.

23. Independent Legal Advice

- a) The Customer acknowledges that they have sought independent legal advice in respect to the Terms contained in this Agreement.

24. Notices

- a) All notices will be effective when received in writing. Notices to the Customer will be given at the address on the front of this agreement and notices to ITB will be given at Office 1 Level 1 50 Owen St Huskisson, N.S.W. 2540, Attention: Business Manager. Either party can give notice of an address change at any time.

IN WITNESS WHEREOF, the parties have executed his Agreement by their duly authorized representatives.

I.T. BASECAMP PTY. LTD.

By: _____ By: _____
Name: _____ Name: _____
Title: _____ Title: _____
Date: _____ Date: _____

CUSTOMER _____

By: _____ By: _____
Name: _____ Name: _____
Title: _____ Title: _____
Date: _____ Date: _____