



## Professional Services, Hardware & Software Terms & Conditions

- 1. Supply of Services and Products.** Peritus Digital Pty Ltd (ABN 58 675 347 716) trading as Peritus Digital, agrees to supply professional services support and break-fix support ("Support"), services ("Services") and/or goods ("Products") to the Customer on these standard Terms and Conditions of Trade. Only these Terms and Conditions of Trade will apply to any relationship between Peritus Digital and the Customer.
- 2. Quotations.** Peritus Digital will provide a quotation for the supply of all Products and Services. These quotations are valid for acceptance only for 28 days from their issue date.
- 3. Payment.** Payment terms are strictly 30 days from the date of invoice. Products will be invoiced on delivery. Support and Hardware Maintenance agreements will be invoiced at the commencement of each Support agreement. Services will be invoiced at the end of each month and on completion or as otherwise prescribed in the documents describing the Services to be supplied. Quoted prices based on a stated exchange rate will be adjusted on invoicing to take account of any exchange rate fluctuations. Adjustments will be based on the exchange rate quoted by the Commonwealth Bank at the close of business on the day before the date of invoice. Any discount which Peritus Digital may have granted to Customer is forfeited by Customer if payment is not made to Peritus Digital by the due date. Payment must not be withheld pending the settlement of any claims or disputes.
- 4. Signed Contract.** Unless quotation or a purchase order issued in respect of this quotation specifies that it is subject to a separate contract signed by the parties, then these terms and conditions apply to this quotation and any purchase order issued in respect of it.
- 5. Supply.** Peritus Digital Pty Ltd (ABN 58 675 347 716) ("Peritus Digital") agrees to supply goods ("Products") and/or services ("Services") to the Customer on these standard terms and conditions ("Terms").
- 6. Purchase Orders.** Purchase orders for Products or Services constitute an offer by the Customer and may only be accepted by Peritus Digital in writing. Any amendments to purchase orders for Products or Services must be approved by Peritus Digital in writing to be effective. Only these Terms (no other terms and conditions which may be attached to or incorporated in a purchase order) form part of the agreement between the parties. Acceptance of a purchase order will not be acceptance of any such terms or conditions.
- 7. Warranty.** Peritus Digital makes no warranty in relation to the Products or Services other than as contained in these Terms or as prescribed by a law which cannot be excluded or in the case of Products, as provided by the Products' respective manufacturers as made known to the Customer in the documents supplied by Peritus Digital or the manufacturer or as otherwise published or made known to the Customer. Defects in Services reported to Peritus Digital within 14 days of delivery of the Service will be rectified by Peritus Digital at no charge to the Customer. Peritus Digital will not provide claimed warranty services for defects or deficiencies in Products or Services which are caused by:
  - (a) external causes including natural disaster, fire, accident, neglect, misuse, vandalism, water, lightning, power surge or spike;
  - (b) the use of a Product for other than its intended purpose;
  - (c) the use with or connection of a Product to items not approved by Peritus Digital;
  - (d) the performance of maintenance or attempted repair by persons other than Peritus Digital or as authorised by Peritus Digital;
  - (e) changes made to the deliverables created by performance of the Services or to the operating environment;
  - (f) the relocation of Products by the Customer; or
  - (g) any configuration or reconfiguration by the Customer of the Products or other equipment with which the Products interface



8. **Interest.** Any amount not paid on the due date for payment will carry interest from that date until payment is made in full at the rate being 2 percentage points above the overdraft rate charged on overdraft accounts over \$100,000 by the Commonwealth Bank of Australia.
9. **Delivery.** Peritus Digital will use its reasonable endeavours to deliver Products or Services to the Customer by the date agreed but will not be liable for any delays in delivery caused by matters beyond its control. Freight charges incurred by Peritus Digital in delivering Products to the Customer will be invoiced to the Customer at cost unless quoted otherwise.
10. **Acceptance.** Unless the Customer gives Peritus Digital written notice of any aspect of a deliverable which is alleged by the Customer to be otherwise than in accordance with these Terms or any applicable specifications, within 7 days of the date of delivery of that deliverable, the Customer is deemed to have accepted that deliverable on delivery. Where the Customer puts a deliverable to commercial use, it is deemed to have accepted that deliverable on the first day of such use, whether or not a notice of the kind contemplated by this clause is given to Peritus Digital as required.
11. **Returns.** Products returned will only be credited to the Customer's account if the return is authorised by Peritus Digital and the Products are in the same condition as delivered by Peritus Digital and only if received by Peritus Digital within 14 days of delivery. Peritus Digital reserves the right to charge the Customer for any costs or losses incurred by Peritus Digital if Products which are not faulty are returned or returned without authorisation, returned later than 14 days from delivery or in a different condition to the condition the Products were in when delivered by Peritus Digital. Peritus Digital will use its best endeavours to minimise such costs and losses.
12. **Risk.** Risk of loss, theft, damage, deterioration or destruction of Products passes to the Customer upon the earlier of: (a) delivery to the Customer; (b) the taking of possession by the Customer; and (c) the delivery to any carrier contracted to the Customer for delivery to the Customer.
13. **Title.** Until the Products have been paid for in full, they remain the property of Peritus Digital. If the Customer fails to pay any moneys to Peritus Digital when due, Peritus Digital may immediately without notice or demand enter upon the Customer's premises and take possession of the Products. This right is without prejudice to any other rights that Peritus Digital may have.
14. **Intellectual Property.** The Customer acknowledges that, unless otherwise agreed in writing, all intellectual property rights attaching to the Products or arising out of the provision of Services are and will remain the property of Peritus Digital (or its supplier, where such rights are owned by that supplier). Any rights to be conferred on Customer will only commence on payment of all charges payable in connection with those rights.
15. **Confidentiality.** Peritus Digital and the Customer agree that they will keep at all times as strictly confidential any confidential information that is disclosed or provided by one party to the other. In this clause, "confidential information" means information in any form but does not include information that is already in the public domain at the time that it is disclosed or becomes part of the public domain otherwise than as a result of an unauthorised disclosure by Peritus Digital or the Customer.
16. **Termination.** Where the Customer:
  - (a) makes default in any payment or breaches any of these Terms;
  - (b) becomes unable to pay its debts as and when they fall due; or
  - (c) commits an act of bankruptcy or, being a company, enters into liquidation or provisional liquidation whether compulsory or voluntary or compounds with its creditors generally or has a receiver or receiver manager or administrator appointed over all or part of its assets or passes a resolution for winding-up or a petition is presented for its winding-up, Peritus Digital may without prejudice to any of its rights or remedies under these Terms or otherwise by notice to the Customer:
    - (a) suspend further supply and require payment in advance for future supply;
    - (b) recover possession of any Product for which payment has not been made;
    - (c) terminate all or any purchase orders for Products or Services which have been accepted by Peritus Digital; (d) claim immediate payment of all moneys due by the Customer in respect of all Products and/or Services which will then be immediately due and payable notwithstanding the due date or dates for payment, or any terms agreed by Peritus Digital; and/or
    - (e) continue to enforce its rights and recover from the Customer such payments and any other amounts owing as and when they fall due.
17. **No Representations.** The Customer acknowledges that Peritus Digital has not made any warranty or representation, express or implied, in relation to the Products or the Services, including whether they



are suitable for a particular purpose (whether such purpose was made known to Peritus Digital or not), unless provided in writing.

18. **Variation.** Any variation to these Terms must be in writing. Variations to any of the Services agreed to be supplied will be charged by Peritus Digital at its then current rates for those additional services, unless otherwise agreed in writing.
19. **Taxes and GST.** The amount payable to Peritus Digital (“the Price”) is inclusive of existing taxes, duties and government charges imposed or levied in Australia in connection with the supply of the Products and Services. The Customer is liable for any new or varied taxes, duties or charges imposed subsequent to Peritus Digital quotation or proposal or to this agreement in respect of the supply of the Products and Services. Peritus Digital will issue a valid tax invoice where GST is to be recovered.