

Conditions of Provision of Goods & Services

Purchase of goods and services from eStrategy Group Pty Ltd are subject to the following terms and conditions. By purchasing or receiving goods or services from eStrategy Group, you accept the following terms and conditions, without limitation or qualification.

1. Definitions

In these conditions:

"Conditions" means these Conditions of Provision of Goods and Services;

"Customer" means a person, firm or corporation, jointly and severally if there is more than one, acquiring goods or services from eStrategy Group;

"goods" means goods supplied by eStrategy Group to the Customer;

"GPO" means the central Post Office in the nearest Capital City;

"Services" means services supplied by eStrategy Group to the Customer; and

"eStrategy Group" means eStrategy Group Pty Ltd ABN 13140269138

2. Basis of Contract

2.1 Unless otherwise agreed by eStrategy Group in writing, these conditions apply exclusively to every contract for the sale or other supply of goods or services by eStrategy Group to the Customer. These Conditions cannot be varied or supplanted by any other conditions without the prior written consent of eStrategy Group.

2.2 Any written quotation provided by eStrategy Group to the Customer concerning the proposed supply of goods or services is valid for 7 days and is an invitation only to the Customer to place an order based upon that quotation. The Conditions may include additional terms in eStrategy Group's quotation, which are not inconsistent with the Conditions.

3 Charges and Payment

3.1 Payment for goods and services must be made by cash, cheque or credit card prior to the provision of goods or services, upon receipt of invoice unless the Customer has a credit account with eStrategy Group.

3.2 All eStrategy Group work is charged in fifteen minute units. Any part thereof is chargeable at the same rate as fifteen minutes.

4. Payment Default

4.1 If the Customer defaults in payment by the due date of any amount payable to eStrategy Group, or if any cheque drawn by the Customer is dishonoured, then all money which would become payable by the Customer to eStrategy Group at a later date on any account, becomes immediately due and payable without the requirement of any notice to the Customer, and eStrategy Group may, without prejudice to any other remedy available to it:-

(a) charge the Customer interest on any sum due at the Reserve Bank's cash target rate as at the date of default plus 4 per cent, for the period from the due date until the date of payment in full;

(b) charge the Customer for all expenses and costs (including legal costs on a solicitor/own client basis and dishonoured cheque fees) incurred by it resulting from the default and in taking whatever action it deems appropriate to recover any sum due;

(c) cease or suspend for such period as eStrategy Group thinks fit, the supply of any further goods or services to the Customer;

(d) by notice in writing to the Customer, terminate any contract with the Customer remaining not fully performed by eStrategy Group; without affecting the accrued rights of eStrategy Group under any contract.

(e) limit the access to network resources of users at the Customer's premises

(f) temporarily change any passwords on the Customer's network

(g) limit or disable access to any campaigns, projects or solutions developed or worked on by eStrategy Group.

4.2 Action under clauses 4.1(c) and 4.1(d) may also be taken, at the option of eStrategy Group where the Customer is:

(a) an individual and becomes bankrupt or enters into any scheme of arrangement or any assignment or composition with or for the benefit of his or her creditors or any class of his or her creditors generally; or

(b) a corporation and, it enters into any scheme of arrangement or any assignment or composition with or for the benefit of its creditors or any class of its creditors generally, or has a liquidator, provisional liquidator, administrator, receiver or receiver and manager appointed, or any action is taken for, or with the view to, the liquidation (including provisional liquidation), winding up or dissolution without winding up of the Customer (except for the purpose of a solvent reconstruction, notice in writing of which is given to eStrategy Group).

5. Passing of Property

5.1 Until full payment in cleared funds is received by eStrategy Group under a contract:-

(a) title and property in all goods supplied under that contract remain (as between eStrategy and the Customer) vested in eStrategy Group and do not pass to the Customer;

(b) the Customer holds the goods as trustee for eStrategy Group;

(c) the Customer must keep the goods separate from its own goods and those of others and maintain the labelling and packaging of the goods; the Customer is required to hold the proceeds of any sale of the goods on trust for eStrategy Group in a separate account however failure to do so will not affect the Customer's obligation to deal with the proceeds as trustee;

(e) eStrategy Group may without notice, enter any premises where it suspects the goods may be and remove them, notwithstanding that they may have been attached to other goods not the property of eStrategy Group, and for this purpose the Customer irrevocably licenses eStrategy Group to enter such premises and take such action and also indemnifies eStrategy Group from and against all costs, claims, demands or actions by any party arising from such action.

6. Risk and Insurance

All risks associated with the goods will pass to the Customer immediately upon delivery of the goods to the premises nominated by the Customer, notwithstanding that title may not have by then passed to the Customer. The Customer must take out all usual insurances in respect of such risks as a prudent business person in the Customer's position would take out.

7. Performance of contract

Any period or date for delivery of goods or provision of services stated by eStrategy Group is intended as an estimate only and is not a contractual commitment. eStrategy Group will use all commercially reasonable endeavours to meet any estimated dates for delivery of the goods or completion of the services.

8. eStrategy Group Warranties

8.1 Subject to this clause 8 and clause 9 below, eStrategy warrants that all goods and services supplied by it shall be free from defects in materials and workmanship for a period of 30 days from the date of delivery. In the case of software the date of delivery shall be deemed to be the date of first successful installation on computers used by the Customer.

8.2 The Customer's sole remedy in the case of non-compliance with the above warranty is for eStrategy Group to attempt to diagnose and rectify the relevant problem at its cost. If eStrategy Group is not able to diagnose the cause of any hardware or software problem, then no charge will apply to the Customer. eStrategy Group does not warrant that it will be able to rectify all problems, which it diagnoses.

8.3 This warranty does not apply in circumstances where:

- (a) goods or services are not defective;
- (b) the goods were used or services required for a purpose other than for which they were intended;
- (c) the goods were repaired, modified or altered by any person other than eStrategy Group;
- (d) the defect has arisen due to misuse, neglect or accident;
- (e) the defect has arisen due to normal wear and tear on the goods;
- (f) the goods have not been stored or maintained as recommended by eStrategy Group or the manufacturer; or
- (g) the Customer is in breach of the Conditions.

9. Liability

9.1 Except as specifically set out herein, any term, condition or warranty in respect of the quality, fitness for purpose, condition, description, assembly, manufacture, design or performance of the goods or services, whether implied by statute, common law, trade usage, custom or otherwise, is hereby expressly excluded.

9.2 Replacement or repair of the goods or resupply of the services is the absolute limit of eStrategy Group's liability howsoever arising under or in connection with the description, quality, condition, performance, assembly, manufacture, design, merchantability or fitness for purpose of the goods or services or alternatively the sale, use of, storage or any other dealings with the goods or services by the Customer or any third party.

9.3 eStrategy Group is not liable for any program or data loss or damage by any Customer arising directly or indirectly from or in connection with the provision of the goods or services.

9.4 Any replacement of parts under warranty will be carried out at the premises nominated by eStrategy Group. The cost and risk of transport of any defective part to the nominated premises is the responsibility of the Customer.

9.5 eStrategy Group is not liable for any indirect or consequential losses or expenses suffered by the Customer or any third party, howsoever caused, including but not limited to loss of turnover, profits, business or goodwill or any liability to any other party.

9.6 eStrategy Group will not be liable for any loss or damage suffered by the Customer or any person claiming through the Customer where eStrategy Group has failed to meet any delivery date or ancels or suspends the supply of goods or services.

9.7 Nothing in the Conditions is to be interpreted as excluding, restricting or modifying or having the effect of excluding, restricting or modifying the application of any State or Federal legislation applicable to the sale of goods or supply of services which cannot be legally excluded, restricted or modified.

10. Intellectual Property

10.1 eStrategy Group will not be responsible to the Customer or any third party for any breach of any software licence in respect of software provided to eStrategy Group by the Customer to be installed on a Customer's computer.

10.2 The Customer hereby indemnifies eStrategy Group against any claim, loss, damage, costs, harm or other expense whatsoever arising either directly or indirectly as a result of or in connection with eStrategy Group installing software at the request of the Customer.

10.3 The Customer acknowledges that, as between it and eStrategy Group, any and all Intellectual Property rights created, developed, subsisting or used in or in connection with the Software are and shall remain the sole property of eStrategy Group. The Customer shall not during or at any time after the completion, expiry or termination of this agreement in any way question or dispute the ownership by the Developer thereof.

10.4 eStrategy Group grants to the Customer, upon Acceptance of Software, and subject to the payment in full of the Development Cost, a non-exclusive, perpetual licence to use the Software for its own internal business operations purposes only. Such licence does not include the right to sub-license others to use the Software, or to commercialise the Software in any way or to reproduce or copy the Software except for legitimate back-up purposes.

11. Cancellation and Deposits

11.1 If, through circumstances beyond the control of eStrategy Group, eStrategy Group is unable to effect delivery or provision of goods or services, then eStrategy Group may cancel the Customer's order (even if it has already been accepted) by notice in writing to the Customer.

11.2 Any deposits paid are considered non-refundable. On special request, eStrategy Group may hold accounts in credit to the value of deposits paid for future work.

12. Website and Software Development Specifics

Any changes to scope of works following signing of a proposal will incur additional charges. Such charges will be approved by The Customer before commencement of work.

Changes to scope will affect timeline, and in these cases eStrategy Group cannot be liable for delivery delays.

When eStrategy Group have been engaged for design, we will require brand guidelines, imagery and copy to be delivered to us before commencement. One revision will be included. Further revisions will be charged at \$140 plus GST.

Cross-browser testing will include IE8+, Safari 5+, Chrome 5+ and Firefox 3+.

eStrategy Group cannot be held responsible from a liability or cost perspective for any changes to external APIs. This includes (but is not limited to) Facebook, Youtube, Twitter, Google, etc. While we are subject matter experts and have access to information regarding these changes when they are due to happen, we cannot control their release. Costs associated with these changes will be charged separately.

Hosting will be charged directly from one of our hosting partners, if desired. Cancellation of these services is the responsibility of the Customer.

In every case a deposit payment of 50% will be required prior to commencement of any services.