

TERMS AND CONDITIONS

These Terms and Conditions and the Registration completed by you form a legally binding agreement between you and us.

1. PROVISION OF SERVICES

From the date that we accept your Registration by issuing or approving a Login (see clause 5.1 below), we will provide the Service, subject to this Agreement (which includes our Privacy Policy and your Registration).

2. PAYMENT

2.1 Amount

You must pay the Fees (if applicable). All Fees are inclusive of Australian GST.

2.2 Timing

You must make all payments (if applicable) in accordance with the Billing Arrangements. If you do not make a payment when due, then the amount unpaid will bear interest at 1.0% per month, compounding monthly.

3. YOUR OPERATIONAL OBLIGATIONS

During the term of this Agreement you must:

- (a) must comply with the User Guide, and all reasonable directions from us;
- (b) comply with all laws applicable in any way in relation to the Service ;
- (c) only use the Service (including all or any part of any webpages, or corresponding code, provided to you in the course of the Service) for your own personal non-commercial use, and not provide or resell the Service (or any part of it) to any other person, whether or not as part of any other service;
- (d) not use the Service, or permit the Service to be used (directly or indirectly), in any way that:
 - (i) commits, or encourages or causes to be committed by any person, any offence or unlawful act or omission; and
 - (ii) is racist, hateful, violent, defamatory, harassing, abusive, threatening, malicious, inflammatory or otherwise objectionable;
 - (iii) is pornographic, sexually explicit, obscene or excessively profane;
 - (iv) is fraudulent, false, misleading or deceptive; or
 - (v) infringes, or encourages the infringement of, a third party's rights, including intellectual property, confidentiality or privacy rights;
- (e) not do or permit to be done, any act which could damage our reputation or the reputation of the Service;
- (f) not use the Service, or any of our trademarks, logo or brands in any way that represents or implies an endorsement or association with you or your activities; or
- (g) respect all copyright notices, not infringe our intellectual property in relation to the Service and not reverse engineer the Service to produce any competitive product (except to the extent that doing so is expressly permitted by law and any right to do so cannot be excluded).

Without limiting the above, we may (but are not obliged to) remove or take down any content (such as photos etc) that you post or store online with us through use of the Service that in our opinion results, or may result, in a breach of any of the above.

4. CONFIDENTIAL INFORMATION

4.1 Obligation of confidentiality

We agree not to disclose your Confidential Information, and to use it only for the purposes of this Agreement.

4.2 Exceptions

Clause 4.1 does not apply:

- (a) to the disclosure or use by us of information if done in accordance with our Privacy Policy (and you hereby consent to any such use or disclosure), including any such disclosure by us to Suppliers; or
- (b) to any information that enters the public domain other than by breach of this Agreement, or is required by law to be disclosed.

5. SECURITY

5.1 Issue of Login

As part of the process of your registration as a user of the Service, we will issue to you or approve (subject to any applicable validation requirements) a single user ID and either a:

- (a) validating email link; or
- (b) password,

which together are referred to as a “**Login**”.

5.2 Use of Login

You are liable for, and we may rely upon, all use of the Service, and all instructions, requests and information submitted to us in connection with any use of the Login, including where the information or request is submitted:

- (a) by a person other than you (or an authorised representative of you);
- (b) by a person using the Login fraudulently or without authority; or
- (c) by means of a machine rather than by direct or indirect human intervention or initiation.

Without limiting the above, we are entitled to treat all use of the Service made using the Login as use by you and that you have authorised, and you are responsible for the payment of any Fees which arise in relation to that use.

5.3 Security of Login

You must:

- (a) keep and store securely at all times and maintain the security of either (as applicable) the password or the email account that you registered with us (through which we send you validating email links);
- (b) notify us immediately upon becoming aware that the password may be lost or stolen, or becoming aware or suspecting that another person knows the password, or has used your Login without your authority, or that the security of your registered email account has or may have been compromised; and
- (c) if the password is lost or stolen, immediately change the password of your account, or if the security of your registered email account is compromised then change your email account registered with us, to protect against fraudulent use of the Service.

Where we issue a validating email link as part of your Login, your access to the Service through use of the validating email link will continue until you elect to log out of the Service (even if you close and re-open your browser or turn your device off and on again). If you log out of the Service then you will need to log in again through the issue of a new validating email link sent by us. You acknowledge that if you do not log out of the Service then it is your responsibility to protect against others accessing or using the relevant device (or validating email link) that you used to access the Service, as any person (e.g. a family member or co-worker) who is able to access or use the device or validating email link will be able to access your Service account and information (even if you have previously closed the relevant browser or turned off the device).

6. WARRANTIES AND LIABILITY

6.1 Exclusion of other terms

We will provide the Service with due care and skill. Otherwise, to the extent permitted by law, and except as expressly provided in this Agreement, all terms, conditions, warranties and representations (in each case whether express, implied, statutory or otherwise) relating in any way to the Service, any Incidental Supplies or this Agreement are excluded. To the extent permitted by law):

- (a) we do not promise that the Service will be continuous or fault free; and
- (b) we exclude all liability in relation to any fault or failure in the supply of the Service or any Incidental Supplies involving any act, omission or event outside our reasonable control, including any equipment failure, power failure, fire, flood, water, labour dispute or shortage, utility curtailment, explosion, emergency, civil disturbance, war, act of God, governmental action or act or omission of any Supplier or other person. If we become aware of any such fault or failure, then we will use reasonable endeavours to address it.

6.2 General limitation of liability

Without limiting clause 6.3, and to the extent permitted by law, any liability of ours in connection with the Service, Incidental Supplies or this Agreement:

- (a) under any condition or warranty that by law cannot be excluded;
- (b) under any consumer guarantee or other right under any law; or
- (c) on any other basis (including contract or negligence),

is, where permitted by law, limited at our option to the replacement, repair or resupply of the relevant goods or services or the payment of the cost of same.

6.3 Exclusion of categories of loss

The following applies only to the extent permitted by law. All liability of ours is excluded in respect of any indirect or consequential Loss suffered or incurred by you, in relation to:

- (a) the Service or any Incidental Supplies;
- (b) any delay or failure in providing them; or
- (c) otherwise under or in connection with this Agreement,

and in any event (including where amounting to a direct loss) for any lost or corrupted data.

6.4 Indemnity

To the maximum extent permitted by law, you hereby indemnify and must keep indemnified us against all Losses incurred by us in relation in any way to:

- (a) any breach of this Agreement by you or negligence by you; or
- (b) any claim by you against any Supplier.

This indemnity may be enforced by us before and without incurring any expense or making any payment to any person.

7. TERMINATION AND SUSPENSION

7.1 Termination without cause

Either you or we may at any time, without any reason, terminate this Agreement by giving the other at least 30 days prior written notice.

7.2 Non-payment

We may terminate this Agreement, or suspend or alter the Service or any related functionality, with immediate effect by written notice to you if you fail to make any payment when due under this Agreement.

7.3 Effect of termination or suspension

Upon the termination or suspension of this Agreement we may cease providing the Service to you (subject to clause 7.4). You will have no right to any refund of any Fees upon termination, or in relation to any period of suspension (or alteration) of the provision of the Service to you, except to the extent (if any) that the law requires otherwise. The termination of this Agreement will not affect the accrued rights of either party as at the date of termination. Clauses 2 to 11 will survive the termination of this Agreement, as will any other provision that by its nature is intended to survive termination.

7.4 Recovery of content

If we or you terminate this Agreement, then for a period not exceeding 30 days from the date of termination we will provide a means by which you may download the current content (such as text responses) that you have stored online with us through use of the Service.

8. AMENDMENT

We may amend this Agreement (including the Fees and Billing Arrangements) in any way at any time by notice to you. Any such amendment will not take effect earlier than 30 days after the date on which we send the notice.

We may change the Service from time to time (including by making additions or deletions) without prior notice to you. Changes we may make include changing the type of browser software required to use the Service and changing the tools included in the Service or the way that they operate. We do not ordinarily intend to reduce the functionality of the Service as a result of any change, but may do so. Where in our view it is necessary or desirable we will update the User Guide correspondingly, either before or after the change takes effect.

9. NOTICES

As part of the process of completing the Registration, you must provide a current email address and any other contact details that we request in the Registration process.

Any notice or other written communication given under or in connection with this Agreement by either party to the other must be sent by ordinary prepaid mail or email to the corresponding address below, unless either party notifies the other of a change of the relevant address. We may also send you notices or other written communications via the Service.

You: As set out in the Registration

Us: support@thecrucialteam.com

The Crucial Team
PO Box 4081
Frankston Heights VIC 3199
Australia

Each party must ensure that at all times the contact details (including email address) applicable to it under this clause is current, and endeavour to ensure it is operational.

An email will be taken to have been served at the time of sending, unless within 24 hours of it being sent the sender receives a manual or automated response indicating that it was not delivered successfully.

10. MISCELLANEOUS

10.1 Applicable law

This Agreement is to be construed according to, and is governed by, the laws of Victoria, Australia. You and we submit to the non-exclusive jurisdiction of the courts in and of Victoria in relation to any dispute arising under this Agreement.

10.2 Assignment and subcontracting

You may not transfer or assign your rights or obligations under this Agreement to any other person. We may subcontract our obligations under this Agreement.

10.3 Entire agreement

This Agreement constitutes the entire agreement between us and you in relation to its subject matter. Any prior arrangements, agreements, representations or undertakings are superseded and, except as expressly provided, each party warrants that it has not relied on any arrangement, agreement, representation or understanding which is not expressly set out in this Agreement or incorporated by reference.

11. INTERPRETATION

11.1 Dictionary

In this Agreement the following terms have the corresponding meaning:

Agreement means these Terms and Conditions, our Privacy Policy, the Registration and the applicable description of the Fees.

Billing Arrangements mean the billing arrangements specified in the Registration.

Confidential Information of yours means all information of a confidential nature of or relating to you, including anything which is indicated to be subject to an obligation of confidence which is disclosed by you to us in relation to this Agreement, or that comes to our knowledge or into our possession in connection with this Agreement.

Fees means the fees (if any), charges, interest and other amounts described or referred to in this Agreement or the Registration, as amended from time to time in accordance with this Agreement.

Incidental Supplies means any goods or services (including, software, advice or delivery) provided in connection with the Service.

Loss means any loss, damage, cost, interest, expense, fee, penalty, fine, forfeiture, assessment, demand, action, suit, claim, proceeding, cause of action, liability or damages incurred by a person, and includes legal costs on an indemnity basis and indirect or consequential losses.

Privacy Policy means our privacy policy from time to time, as displayed on the Website.

Registration means the electronic application to use the Service completed by you via the Website, as varied by you from time to time via the Website.

Services means the provision of an online service (as varied from time to time by us) via the Website known as "Crucendo" that provides certain personal development and introspective tools, as described on the Website or in the User Guide (and subject to the restrictions or limitations included in the applicable description).

Supplier means any person from whom we purchase any services in connection with the supply of any of the Service.

us (or **we**) means The Crucial Team Australia Pty Ltd (ACN 612 428 378).

User Guide means any instructions and guidelines provided or published by us from time to time in relation to the Service and its use by users.

Website means the website at www.thecrucialteam.com

you means the person described in the Registration.

11.2 Rules of interpretation

In this Agreement:

- (a) **Gender.** Words importing any gender include the other genders.
- (b) **Headings.** Headings will be ignored in construing this document.
- (c) **Inclusive Terms.** Use of inclusive terms such as "includes" or "including" will be read as "includes, without limitation" or "including, without limitation".
- (d) **Numbers.** Words importing the singular include the plural and vice versa.
- (e) **Persons.** References to persons include corporations.
- (f) **Writing.** References to writing include any mode of representing or reproducing words in visible form, and include email transmissions and electronic messaging.