

# idec Supply Terms and Conditions

## 1. The Contract

A Contract will be formed between idec and the Supplier on the terms of these Purchasing Conditions when the Supplier accepts the Order, or provides the Goods or Services set out in the Order. The Contract continues until the Goods are delivered or the Services are performed, or the expiry date specified in the order is reached (if applicable) unless terminated earlier in accordance with this Contract.

## 2. Supplier to provide Goods and/or Services

Idec appoints the Supplier to supply the Goods and/or Services. The Supplier accepts the appointment. The Supplier must provide the Goods and/or Services in accordance with this Contract and idec's delivery instructions including within the timeframes specified in the Order or as otherwise agreed.

The Supplier will promptly notify idec if it believes it will not be able to meet any delivery date or other timeframes specified in the Order. If the Supplier cannot meet the timeframes specified in the Order, then idec may terminate the Contract at no cost to idec.

## 3. Right to cancel Order before delivery for convenience

Idec has the right to cancel the Order and terminate this Contract at any time prior to delivery of the Goods or completion of the Services, by written notice to the Supplier. The Supplier will promptly notify idec if it will incur expenses as a consequence of the cancellation, including the estimated amount. If idec proceeds to cancel the Order, idec will reimburse the Supplier for its reasonable out of pocket expenses incurred as a direct consequence of the cancellation. The Supplier must take all reasonable steps to minimise the expenses associated with cancellation.

## 4. Requirements

(a) The Supplier must ensure that the Goods satisfy the description in the Contract or the Order, are of a high quality, and fit for their usual purpose and any other purpose disclosed by idec before the Contract is formed.

(b) The Supplier must ensure the highest quality of work, and provide the Services in a proper, timely and efficient manner using the standard of care, skill, diligence, prudence and foresight that would reasonably be expected from a prudent, expert and experienced provider of services that are similar to the Services;

(c) If the Supplier enters the Site to deliver the Goods or provide the Services, the Supplier must comply with idec policies, codes of conduct, rules, standards and procedures, and workplace health and safety policies, relevant to the Site. Idec will make copies available on request.

(d) The Supplier must comply with all reasonable directions of idec in relation to the Supplier's performance of the Contract.

(e) The Supplier must comply with all Laws necessary for the Supplier to perform the Contract (and provide evidence of compliance if idec asks), and ensure that use of the Goods by idec as contemplated in the Contract will comply with all Laws.

(f) If the Supplier enters the Site to deliver the Goods or provide the Services, the Supplier must maintain public liability and products insurance for a minimum amount of \$1 million per claim and workers' compensation insurance (if required by law), and any other insurance specified in writing by idec.

(g) The Supplier must not use or disclose or otherwise make available any Confidential Information to any person except to its Personnel on a need to know basis to perform the Contract.

(h) If the Supplier collects or has access to any Personal Information in order to perform the Contract, the Supplier must, when performing this Contract, comply with the Australian Privacy Principles in the Privacy Act.

(i) The Supplier is fully responsible for its Personnel, including for ensuring Personnel comply with the Requirements. The Supplier is not, and Supplier Personnel are not, employees of idec.

## 5. Conflict of Interest and criminal organisations

### 5.1. Conflict of Interest

The Supplier warrants that it and its Personnel do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations where a Conflict of Interest is created, or might appear to be created, in conflict with its obligations under this Contract, except as disclosed in writing to idec.

### 5.2. Criminal organisation

The Supplier warrants that neither it nor its Personnel: (a) have been convicted of an offence under the Criminal Code where one of the elements of the offence is that the person is a participant in a criminal organisation within the meaning of section 60A (3) of the Criminal Code; or

(b) are subject to an order under, or have been convicted of an offence under the Criminal Organisation Act 2009 (Qld).

### 5.3. Warranties are ongoing

The warranties in this clause are provided as at the date of the Contract and on an ongoing basis. The Supplier warrants that it will immediately notify idec if it becomes aware that any warranty made in this clause was inaccurate, incomplete, out-of-date or misleading in any way when made, or becomes inaccurate, incomplete, out-of-date or misleading in any way.

In addition to any other remedies available to it under Law or contract, idec may, in its absolute discretion, immediately terminate the Contract if it believes the Supplier has breached any warranties in this clause.

## 6. Invoicing, Price and payment

(a) The Supplier may invoice idec after delivery of Goods or Services that comply with the Requirements.

(b) The Supplier must include adequate information for idec to verify that the invoice is accurate, and will provide supporting documentation reasonably requested by idec. Idec is not required to pay any invoice that does not comply with this clause.

(c) Idec will pay each correctly rendered tax invoice 30 days from the end of the month.

(d) Idec may withhold payment of any amount which it disputes in good faith, until the dispute is resolved and it is determined that the amount is payable.

(e) The Price is inclusive of all charges, expenses and overheads, and all taxes and duties, except for GST.

## 7. GST

(a) Unless expressly stated otherwise, all amounts payable under this Contract are GST exclusive.

(b) Where GST is imposed on a supply under the Contract, idec shall pay to the supplier an amount equal to the GST (if any) payable on the taxable supply, at the same time that it is required to make the payment for the taxable supply, provided that it receives a valid tax invoice at or before the time of payment. Terms in this clause have the same meanings as in the GST Law.

## 8. Liability

The maximum liability of a party to the other, whether in contract, tort (including negligence) or otherwise in connection with the Contract, is an amount equal to the total of all Prices (including additional expenses and charges) payable under the Contract, multiplied by 1.5. The cap on liability does not apply to liability in relation to:

(a) personal injury, including sickness, injury or death; or

(b) loss of, or damage to, tangible property; or

(c) Wilful Default, Wilful Misconduct, unlawful act or omission of, or failure to comply with applicable Law by the Supplier or its Personnel; or

(d) any Claim by a third party relating to this Contract, including breach of a third party's Intellectual Property Rights.

## 9. Intellectual Property Rights

The Supplier grants (and must procure that relevant third parties grant) idec an irrevocable, unconditional, perpetual, free of additional charge, non-exclusive, worldwide and transferable (including sub-licensable) licence to exercise all Intellectual Property Rights in the Goods and Services, for any purpose of idec. The Supplier warrants that it is authorised to grant the rights in this clause.

## 10. idec Data

The ownership of idec Data, including any Intellectual Property Rights in idec Data, shall vest in idec on creation. The Supplier has no right, title or interest in idec Data except as specified in this clause. The Supplier must not use, access, modify or disclose idec Data to any person except to its Personnel on a need to know basis to perform the Contract. The Supplier must comply with clause 4(h) and all applicable Laws in relation to idec Data which is Personal Information, and must provide reasonable assistance to idec on request to enable idec to comply with Laws, policies and standards applicable to idec in relation to idec Data including (without limitation) identifying, labelling, searching, reporting, copying, retrieving and modifying idec Data in relation to Personal Information, public records, right to information and information standards.

### 11. Where Requirements not met

If any Requirements for the Goods and/or Services are not met, at the request of idec the Supplier will promptly:

(a) resupply the relevant Goods;

(b) re-perform the relevant Services; or

(c) refund to idec any monies paid, and idec may exercise any other right or remedy that it has under this Contract or otherwise. If the Supplier fails to comply with its obligations under this clause, idec may have the Goods and/or Services re-supplied or re-performed by others, and the Supplier shall pay to idec on demand any costs incurred by idec in doing so.

Acceptance of the Goods and/or Services by idec does not relieve the Supplier of any of its obligations under the Contract.

## 12. General

The parties agree that:

(a) (communication) they will direct all enquiries relating to the Contract to the other party's nominated contact person, or to another person if the other party directs;

(b) (variation) the Contract may only be varied by written agreement of authorised representatives of the parties;

(c) (entire agreement) this Contract sets out all the parties' rights and obligations relating to the subject matter of the Contract, and it replaces all earlier representations, statements, agreements and understandings except as stated otherwise in this Contract. No other terms apply;

(d) (relationship) their relationship is of principal and contractor. This Contract does not create any partnership, joint venture or employment relationship. The Supplier must not represent itself or allow anyone else to represent that the Supplier is a partner, joint venturer, officer or employee of idec;

(e) (manufacturer warranties) the Supplier assigns any manufacturer's warranty to idec, where possible to do so, and must inform idec where it is not possible to do so;

(f) (delivery) the Supplier must deliver the Goods or other relevant Deliverables to the Site in accordance with idec's instructions. If the Supplier asks, idec will confirm in writing that the Deliverables have been received;

(g) (packaging) the Supplier must adequately pack and protect Goods to withstand transit and storage, and provide a packing note with the Goods;

(h) (rejected Goods) if idec rejects Goods, and the Supplier does not repossess the rejected Goods within 30 days of notice of rejection, idec may sell or dispose of the Goods, at idec's cost;

(i) (risk) will transfer to idec when the Goods are delivered to the delivery address specified in writing by idec, in accordance with the delivery instructions.

(j) (title) in the Goods and Deliverables will transfer on the earlier of the delivery or payment of the applicable Price;

(k) (no encumbrance) the Supplier warrants that the Goods are not (and when title passes, will not be) subject to any encumbrance or interest, except for an encumbrance or interest which arises by operation of a Law that cannot be excluded by contract.