

Purchase Order Terms and Conditions

1. General

- 1.1 These Terms and Conditions (“**Terms**”) apply to the order for goods (“**Goods**”) or services (“**Services**”) placed by Infomedia Ltd (“**Infomedia**”) as described in a purchase order or similar order document (“**Purchase Order**”) with the supplier of the Goods or Services (“**Supplier**”). These Terms are to be read as in addition to any terms specified by Infomedia in the Purchase Order and/or any attachment to it that is expressly incorporated in writing.
- 1.2 Your subsequent delivery of Goods and/or Services shall constitute acknowledgement and acceptance of these Terms. No other or different terms or conditions shall apply, however or wherever they may appear unless agreed to in writing between the parties.

2. Offer and Acceptance

- 2.1 Supplier is taken to have agreed to a Purchase Order and these Terms if it accepts the Purchase Order or delivers the Goods and/or Services described in the Purchase Order.
- 2.2 If Supplier is unable or unwilling to accept the Purchase Order, it must notify Infomedia promptly. It may propose a variation to the Purchase Order, or offer other Goods and/or Services in substitution, but any such variation or substitution must be approved by the Infomedia General Counsel in writing before delivery.
- 2.3 The Purchase Order once accepted, combined with these Terms and any terms and conditions in the Purchase Order and/or any attachment expressly incorporated in writing, will form a binding agreement between the parties (“**Agreement**”).

3. Cancellation and Changes

- 3.1 Infomedia may at any time before delivery change or cancel the Purchase Order.
- 3.2 If Supplier has already incurred expense in arranging for the order or delivery of the Goods and/or Services specified in the first Purchase Order, Infomedia agrees to pay Supplier’s reasonable and demonstrable costs or expenses incurred. Supplier must mitigate any such costs or expenses.
- 3.3 If Infomedia changes the Purchase Order and any change causes an increase or decrease in the cost of the Goods and/or Services, or time required to deliver the Goods and/or Services, an equitable adjustment must be made to the Fees which is appropriate to the circumstances.

4. Delivery, Acceptance and Title

- 4.1 Unless otherwise specified as such in the Purchase Order, time will be of the essence with respect to Supplier’s delivery obligations under this Agreement. Supplier must deliver the Goods and Services as set out in the Purchase Order in accordance with the time periods for delivery specified in the Purchase Order.
- 4.2 Payment of any invoice by Infomedia will not be deemed acceptance of any Goods and/or Services, but rather such Goods and/or Services will be subject to a 30 day period of inspection, testing, acceptance or rejection by Infomedia. If Infomedia rejects any Goods and/or Services within such 30 days period, an equitable adjustment must be made to the Fees to reflect such rejection or if returned to Supplier, Supplier must refund Infomedia accordingly).
- 4.3 Title and risk in the Goods will pass to Infomedia when they are delivered to Infomedia.

5. Sub-contracting

- 5.1 Except as expressly provided in the Purchase Order, Supplier may not sub-contract any obligations under these Terms without the prior written consent of Infomedia.
- 5.2 Where Supplier sub-contracts any of its obligations under these Terms, Supplier remains liable for the carrying out and completion of those obligations.

6. Fees and Invoices

- 6.1 In consideration for the provision of Goods and/or Services under these Terms, Infomedia agrees to pay to Supplier the fees specified in the Purchase Order ("**Fees**").
- 6.2 Unless otherwise specified in the Purchase Order, Infomedia agrees to pay Supplier the Fees within 30 days of receipt and acceptance of an invoice by Infomedia (such invoice to be accompanied by such reasonable information as Infomedia may require). Infomedia may withhold any disputed portion of the Fees until the dispute is resolved.
- 6.3 If GST is payable in connection with the Goods and/or Services to be supplied under these Terms, then Supplier irrevocably warrants and agrees that the Fees payable to it under these Terms and specified in the Purchase Order is the GST inclusive price of those Goods and/or Services unless otherwise agreed in the Purchase Order.

7. Indemnity, Insurance and Warranties

- 7.1 Supplier shall on demand indemnify Infomedia against all Losses Infomedia directly or indirectly sustains or incurs as a result of:
 - (a) Any negligent, unlawful or willful act or omission of Supplier, Supplier personnel or Supplier subcontractors;
 - (b) Any infringement or claimed infringement of the IPRs or moral rights of a third party arising out of Infomedia's receipt or use of the Goods and / or Services;
 - (c) Death or personal injury of any person to the extent caused by Supplier;
 - (d) Property damage to the extent caused by Supplier;
 - (e) any breach by Supplier of clause 8.
- 7.2 During the term of the contract and for a period of six years thereafter, Supplier must:
 - (a) maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with these Terms, including liabilities related to product defects causing injury or property damage, failure to manufacture and supply the Goods and/or Services and failure to manufacture to the agreed specification;
 - (b) have and maintain Public and Products liability insurance (at least \$10M) and professional indemnity insurance (at least \$5M);
 - (c) ensure that any sub-contractor engaged by it is insured to a level commensurate with the insurance obligations of Supplier under these Terms; and
 - (d) on request provide Infomedia with a certificate of currency from its insurance broker certifying that it has the insurance required under these Terms.

7.3 Supplier represents and warrants that:

- (a) it has all rights, title, licences, interests and property necessary to provide the Goods and/or perform the Services;
- (b) the Services will be:
 - (i) compliant with the applicable specification/s;
 - (ii) performed by suitably qualified persons;
 - (iii) provided in co-operation with Infomedia and shall comply with all reasonable instructions of Infomedia and that the deliverables shall be fit for any purpose expressly or impliedly made known to Supplier by Infomedia;
 - (iv) performed with the best care, skill and diligence in accordance with the best practice in Supplier's industry and that deliverables will be free from defects in workmanship, installation and design.
- (c) in relation to Goods:
 - (i) the Goods will be fit for the purposes intended;
 - (ii) the Goods will meet any agreed design and performance criteria and correspond with any sample;
 - (iii) the Goods will be complete, accurate and of merchantable quality;
- (d) it is entitled to grant any licence of IPRs to Infomedia under these Terms;
- (e) Infomedia's use of any Background IPRs and/or Project IPRs in the Goods and/or Services ("Warranted Materials") will not infringe the IPRs of any person; and
- (f) it will supply to Infomedia in English all complete, accurate and up-to-date documentation associated with the use of the Goods and/or Services.

7.4 If a third party claims, or Infomedia reasonably believes that a third party is likely to claim, that all or part of the Warranted Materials infringe their IPRs or breach their confidence, Supplier must, in addition to the indemnity under this Agreement and to any other rights that Infomedia may have against it, promptly, at Supplier's expense:

- (a) use its best efforts to secure the rights for Infomedia to continue to use the affected Warranted Materials free of any claim or liability for infringement; or
- (b) replace or modify the affected Warranted Materials so that the Warranted Materials or the use of them does not infringe the IPRs of any other person without any degradation of the performance or quality of the affected Warranted Materials.

7.5 If Infomedia gives reasonable notice of any defect or omission discovered in the goods during any warranty period, Supplier must correct that defect or omission without delay and at no cost to Infomedia. Where no warranty is otherwise specified, the warranty period shall be 90 days from acceptance by the Infomedia. Supplier must meet all costs of, and incidental to, the discharge of warranty obligations, including any packing, freight, disassembly and re-assembly costs.

8. Intellectual Property Rights

- 8.1 Subject to clause 8.2, all rights, title and interest in any IPRs created in providing the Goods and/or Services (“**Project IPRs**”) will be owned by Infomedia, and Supplier hereby assigns all rights, title and interest it may have now or in the future in those Project IPRs to Infomedia.
- 8.2 The IPRs owned by a party prior to the date of these Terms (“**Background IPRs**”) remain with the contributing party.
- 8.3 Supplier grants to Infomedia a perpetual, irrevocable, royalty-free worldwide, non-exclusive licence (including a right of sub-licence) to use, reproduce, modify, publish, adapt, or communicate to the public and exploit Supplier’s Background IPRs as necessary in conjunction with the Goods and/or Services, and the Project IPRs. On request, Supplier must provide Infomedia with all necessary documentation and materials to take advantage of this licence.

9. Confidential Information

- 9.1 Each party (‘recipient’) must keep any Confidential Information disclosed to it confidential and must not deal with it in any way that might prejudice its confidentiality. These obligations continue indefinitely beyond the end of this Agreement, but do not extend to disclosures:
- (a) required by law or by the rules of a governing stock exchange; and
 - (b) to a recipient’s officers or employees who have a need to know for the purposes of this Agreement (but only to the extent that each has a need to know); and before disclosure, have been directed by the recipient to keep that Confidential Information confidential.

10. Privacy

- 10.1 To the extent it processes any personal information obtained from or on behalf of Infomedia in relation to the Goods and/or Services (**Infomedia PI**), Supplier must:
- (a) comply with all applicable privacy laws relating to the processing of Infomedia PI;
 - (b) process Infomedia’s PI only to the extent, and in such a manner, as is necessary for fulfilling its obligations under these Terms and in accordance with Infomedia’s instructions from time to time and shall not process personal data for any other purpose;
 - (c) not transfer Infomedia’s PI offshore without Infomedia’s prior written consent;
 - (d) take appropriate technical and organisational measures against the unauthorised or unlawful processing of Infomedia’s PI and against the accidental loss or destruction of, or damage to, Infomedia’s PI to ensure Infomedia’s compliance with applicable privacy laws;
 - (e) promptly inform Infomedia if any of Infomedia’s PI is lost or destroyed or becomes damaged, corrupted, or unusable, or on becoming aware of a breach of the obligations set out in this clause 10; and
 - (f) on demand indemnify Infomedia and hold Infomedia harmless against any loss, damage, costs, fines or expenses, including legal fees and costs of litigation, arising from a breach of this clause 10.

11. Infomedia’s policies

- 11.1 Supplier must comply with any applicable Infomedia policies and procedures as notified by Infomedia to Supplier from time to time.

12. Modern Slavery

12.1 The Supplier warrants that:

- (a) the Supplier and, to the best of its knowledge and belief having made reasonable enquiries, its supply chain have not been convicted of any offence involving modern slavery; and
- (b) it and its supply chain will conduct their business in a manner so as to reduce the risk of modern slavery in their operations and supply chains.

12.2 The Supplier must immediately notify the Customer if it becomes aware of any actual, potential or perceived modern slavery in its operation or its supply chain.

12.3 Export Control Laws.

The Supplier must comply with all applicable export control laws.

13. Publicity

13.1 Supplier shall not reference Infomedial in any press release, other publicity or marketing materials except with Infomedial's express written consent.

14. Miscellaneous

14.1 Infomedial may terminate these Terms and/or a Purchase Order by written notice to Supplier:

- (a) if Supplier breaches these Terms and fails to remedy the breach within 14 days after receiving notice requiring to do so (or Supplier breaches a term of these Terms which is not capable of remedy); or
- (b) if Supplier is or becomes subject to proceedings which may result in Supplier becoming bankrupted, wound up, under voluntary administration or subject to the control of a receiver or receiver and manager.

14.2 These Terms are governed by the laws of New South Wales. The courts of New South Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms and the Purchase Order. Infomedial may elect to initiate proceedings in a different jurisdiction in respect of any claim arising from proceedings against Supplier in a different jurisdiction.

14.3 Each party agrees to execute such agreements, deeds and documents and do or cause to be executed or done all such acts and things as may be reasonably necessary to give effect to these Terms. Supplier agrees to cooperate and work with third party suppliers of Infomedial to the extent necessary to give effect to these Terms.

14.4 Infomedial reserves the right to retain other persons or entities to supply the Goods and/or Services, including but not limited to any part of the Goods and/or Services.

14.5 Supplier may only assign its rights or novate its rights and obligations under these Terms with the prior written consent of Infomedial.

14.6 A provision of these Terms or a right created under it may not be waived or varied except in writing, signed by the party or parties intended to be bound. A failure of a party to exercise a right arising out of these Terms does not constitute a waiver of that right.

15. Interpretation

15.1 In these Terms:

- (a) “Confidential Information” means all data and/or information exchanged between the parties for the purposes of this Agreement before, on or after the date of this Agreement (including the terms of this Agreement) relating to the operations, business, research and technology of the disclosing party, but not including any information which:
 - (i) is publicly available at the date of these Terms;
 - (ii) becomes publicly available subsequent to the date of these Terms without breach of these Terms;
 - (iii) a party obtained from a third party without breach by that third party of any obligation of confidence concerning that Confidential Information; or
 - (iv) was already in the party’s possession (as evidenced by written records) when provided by or on behalf of the other party.
- (b) “IPRs” means any patent, copyright (including without limitation moral rights and software), database right, design right, registered design, trademark or service mark (registered and unregistered), domain name, know-how, utility model, unregistered design or other industrial or intellectual property right subsisting in any part of the world and, where relevant, any application for protection or proprietorship of any such right.
- (c) “Losses” means actions, claims, liabilities, expenses, losses, damages and costs (including but not limited to legal costs on a full indemnity basis, whether incurred by or awarded against a party) and consequential and indirect losses and damages including those arising out of any third party claim.

15.2 In these Terms:

- (a) references to the singular includes the plural and vice versa; and
- (b) references to person or individuals include that person’s successors, administrators, executors and assigns and a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any government agency.

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