

## What is the Small Business Waiver and why are we providing this to you?

There are some changes to Australia's consumer laws, and we want to ensure that we have fair terms in place with all vendors. For more information about these changes please see guidance from the Australian Competition and Consumer Commission.

## When does the Small Business Waiver apply to me?

This Small Business Waiver only applies if:

- you are supplying goods or services to Programmed in Australia;
- you have signed up to a master contract with Programmed prior to 9 November 2023;
- you are a Small Business (as defined below); and
- none of the exceptions (see below) apply.

## Are you a Small Business?

You are a 'small business' if you are a business that employs fewer than 100 persons or has a turnover for the last income year of less than AU\$10,000,000 (**Small Business**).

## Are there any exceptions to this Small Business Waiver

The Small Business Waiver does not apply if:

- you are a Small Business providing Goods or Services to us under an existing engagement document (e.g., a statement of work) which was in place before 9 November 2023; or
- you are a Small Business signed up to our new Master Vendor Agreement (**MVA**).

## Details of this Small Business Waiver

If this Small Business Waiver applies, then Programmed hereby irrevocably waives the following entitlements if present in your master contract:

- any right Programmed has to limit Programmed's liability to you to a maximum monetary amount;
- any right Programmed has to exclude its liability for consequential loss;
- any obligation for you to have a minimum insurance deductible (for the avoidance of doubt, this does not relate to requirements for you to maintain specified insurance amounts);
- any right Programmed has to pay you in a timeframe that is longer than a statutory timeframe applicable to the payment;
- any right for Programmed to terminate your engagement for convenience **and** limit payment obligations **is waived in part**. Any right that allows Programmed to terminate for convenience will remain in force, however, if we terminate your engagement for convenience we will pay your reasonable and unavoidable verified direct costs of disengagement that you actually incur (excluding any redundancy payments) and any existing amounts owing to you for services or goods already delivered, or performed by you up to the date of termination and that remain outstanding (less any amount we are entitled to set off for any reason), unless otherwise agreed.

## SMALL BUSINESS WAIVER – (Australia only)

- any indemnity that you provide to Programmed is waived to the extent that Programmed negligently caused or contributed to the loss or liability; and
- any indemnity that you provide to Programmed that extends to you indemnifying Programmed for any consequential loss (e.g., loss of profit, loss of use, loss of business) is waived (in respect of the consequential loss portion only), except in relation to losses or liability incurred by Programmed in the following circumstances, which will not be considered consequential loss and for which you will remain liable for where specified your old master contract:
  - loss or liability incurred by Programmed in connection with a head contract between Programmed and its customer;
  - where you have or are meant to have insurance;
  - in relation to personal injury or property damage;
  - in relation to your wilful misconduct or as a result of fraud, or your breach of confidentiality or privacy obligations; or
  - any entitlement by Programmed for liquidated damages or abatements in accordance with your master contract.

Please note that your master contract may not contain all of these entitlements for Programmed (so the waiver may not be applicable).

### Master Vendor Agreement

Programmed notes that old master contracts may also include terms reasonably necessary to protect Programmed's legitimate business interests, so if you have any questions about this waiver, your old master contract or want to talk about negotiating a Master Vendor Agreement with us (which will cover all future engagements with us), please email us at [procurement@programmed.com.au](mailto:procurement@programmed.com.au).