


INFORMATION POINTS:





We have included 'information points' in these General Terms which look like this:

 [Example information point for Vendor]

to help you understand the purpose of a term (**Information Points***). Information Points are for guidance only and do not form part of the terms of this Contract.

***DISCLAIMER:** Information Points are guides only. They are not terms of your Contract. Information Points are not legal, commercial or financial advice to you. Do not rely on Information Points to decide whether to sign this Contract. If you are unsure about anything relating to this Contract, you should seek your own legal advice.

THE PARTIES AGREE THAT:

STRUCTURE OF CONTRACT	
<p>1. Agreement Structure</p> <hr/> <p> The MVA contains your 'umbrella' T&Cs. Please see the visual representation on the execution page.</p> <p> This means multiple SOWs, Orders and/or Vendor Agreements (Engagements) can be agreed under it which contain the commercial details (e.g. for different Customer projects) and which incorporate the MVA by reference.</p> <p> A 'MVA' is also referred to a 'standing offer agreement', an 'umbrella agreement' or a 'ticket to play'.</p> <hr/>	<p>1.1. You agree to supply the Goods and/or Services required by Programmed in accordance with the terms of this Master Vendor Agreement (MVA) and each contract formed under it (each a Contract).</p> <p>1.2. A Contract is made of the following terms (only):</p> <p>1.2.1. This MVA which includes the:</p> <ul style="list-style-type: none"> a. Contract Details (Schedule 1); b. General Terms (Schedule 2); c. Special Conditions (if any) (Schedule 3); d. Annexures to the MVA (Annexures); and <p>1.2.2. any Statement of Work (SOW), Order or Vendor Agreement (as applicable) (an Engagement Document).</p> <p>1.3. A Contract reflects the entire agreement between the parties with respect to its subject matter and supersedes (i.e., replaces) all prior proposals, undertakings or other communications whether orally, electronically or in writing.</p>
<p>2. What takes priority?</p> <hr/> <p> The terms of the relevant Engagement, take precedence over the terms of the MVA.</p> <hr/>	<p>2.1. If the terms of a Contract are inconsistent, they must be applied in the following order of priority (unless the relevant clause says otherwise):</p> <ul style="list-style-type: none"> 2.1.1. Applicable Order; 2.1.2. Statement of Work or Vendor Agreement (as applicable); 2.1.3. Contract Details (Schedule 1 of MVA); 2.1.4. Special Conditions (Schedule 3 of MVA); 2.1.5. General Terms (Schedule 2 of MVA); and then 2.1.6. Annexures (of MVA). <p>2.2. Information Points are guides only and do not form part of the terms of a Contract.</p>

STRUCTURE OF CONTRACT

3. The Commercial Model

i Customer Contracts typically require that our terms with you include some mandatory Customer Requirements. It is reasonably necessary for us to pass down ('back-to-back') Customer Requirements that you have control over to protect our legitimate business interests.

i This Contract needs to reflect the broader Commercial Model so that we can (1) engage you and (2) manage the work we do for our Customers under Customer Contracts (which are often broad contracts with strict obligations that run for a long period of time).

i The agreed pricing should reflect that obligations and risks that you assume under this Contract

3.1. The **Commercial Model** is as follows:

Our Customers engage us to provide a variety of goods and/or services under Customer Contracts. Sometimes, we may need help from other Vendors (like you) if we cannot deliver some Customer work ourselves.

3.2. We may also need to pass on some Customer Requirements from a Customer Contract on to you.

3.3. This Contract needs to take the Commercial Model into account. This is because (amongst other things):

3.3.1. changing circumstances that affect Programmed under a Customer Contract can also have significant impact on this Contract and the way you supply Goods or Services to us as part of the Commercial Model; and

3.3.2. Customer Contracts typically have strict risk management profiles, which we need to manage and typically pass on to you.

3.4. By signing this Contract with us, you acknowledge and agree that:

3.4.1. you are being engaged by Programmed to help us supply goods or services to our Customers;

3.4.2. Programmed itself is subject to strict Customer Contracts and we may need to pass Customer Requirements on to you (through an Engagement Document) so that we are allowed to engage you for a particular piece of Customer work;

3.4.3. if you are unsure about anything to do with this Contract, you are aware you can seek your own legal and/or commercial advice about this Contract (at your cost), or query any aspect with us (including the fee that you will be paid to compensate you for various obligations and risks that you are assuming under this Contract), before signing; and

3.4.4. Information Points do not form part of the terms of this Contract.

PURPOSE OF THIS CONTRACT

4. Your Appointment

i Please note that your minimum commitments can be agreed with us under a SOW, Order or other Vendor Agreement (which take priority over the terms of this MVA).

4.1. The MVA sets out the general terms on which you will supply Goods or Services to Programmed if we agree to purchase Goods or Services from you.

4.2. You acknowledge and agree that:

4.2.1. (unless otherwise agreed in writing in an Engagement Document) your appointment is not exclusive. This means we can purchase any goods or services from any other Vendor at any time and in relation to any Customer or Project (whether or not these are similar to or the same as the Goods or Services you supply to us); and

4.2.2. no minimum purchase levels apply. This means we must only obtain the Goods or Services from you that we agree to purchase (and you agree to supply) under an Engagement Document.

DURATION OF THIS CONTRACT

5. Term

i How long does your engagement go for?

- 5.1. This MVA starts on the Commencement Date and ends on the End Date (unless it is terminated before the End Date, or extended past the End Date, in accordance with these General Terms) (the **Term**).
- 5.2. If an Engagement extends past the End Date, then the parties agree that the End Date is extended in relation to that particular Engagement Document can be completed and/or delivered.

6. Extensions

i The MVA applies until it is terminated. However, Engagement Documents may contain terms and extension periods. We will give you 30 days' notice of an extension.

- 6.1. If Engagement Documents include an Extension Period, the parties agree that Programmed can choose to extend the End Date of an Engagement by the length of that Extension Period. We will let you know in writing no less than 30 days before the End Date of our intention to extend.
- 6.2. If an Engagement Document includes multiple Extension Periods, the process in clause 6.1 will apply each time Programmed chooses to extend the End Date by an Extension Period (after which the number of Extension Periods is reduced by one (1)).
- 6.3. For the avoidance of doubt, where you continue to supply Goods or Services beyond the End Date (as extended), the Contract will continue to apply in respect of those Goods or Services.

WAYS TO ORDER

7. MVA (umbrella) 

i The MVA is your 'ticket to play' and not an automatic right to be issued SOWs, Order or Vendor Agreement.

i These are general terms. Service specific terms, exclusivity and/or your minimum commitments can be agreed in an Engagement Document.

i The definition of 'Services' includes Goods and any other deliverable you provide to us.

- 7.1. The MVA:
 - 7.1.1. is designed to streamline the engagement model between the parties for the supply of Goods or Services; and
 - 7.1.2. establishes a master agreement (or 'umbrella') under which the parties can enter into engagements by way of SOWs and/or Orders and/or other Vendor Agreements (Engagements) from time to time for the supply of those Goods or Services.
- 7.2. Each time an Engagement Document is entered by the parties, a separate Contract will be formed which incorporates the relevant terms of the MVA.
- 7.3. Goods or Services are not acquired, supplied or paid for under the MVA. They are only acquired, supplied and paid for under the separate Engagements formed when the parties enter into an Engagement Document (SOW and/or, Order, and / or Vendor Agreement).
- 7.4. This MVA does not obligate us to agree to purchase any minimum quantity of Goods or Services from or enter into any Engagement Document and you are not obliged to accept Engagement Documents issued to you, unless you have made commitments or representations that you can provide Goods or Services (including as agreed in any Engagement Documents).
- 7.5. You acknowledge and agree that any terms and conditions that you provide with a quote, proposal or response will be of no legal effect, even if signed by Programmed.
- 7.6. You acknowledge that it is open to you to seek independent legal advice at any time in relation to a proposed Engagement Document.

WAYS TO ORDER	
<p>8. Statement(s) of Work (SOWs)</p> <hr/> <p>i Once you have signed a MVA, we can issue you with a SOW to engage you to provide Services (or Goods if relevant) i.e.:</p> <ol style="list-style-type: none"> 1. MVA + SOW 2. MVA + SOW (+ Order) <p>i If you require terms that are specific for the types of Services you are providing, these will be agreed as part of the Engagement Document and will take precedence over these General Terms.</p> <hr/>	<ol style="list-style-type: none"> 8.1. Programmed may order Goods or Services from you from time to time by issuing you with a proposed SOW. If Programmed provides you with a proposed SOW, you will prepare and submit a response to us (including a proposal and quote) in the format requested (which may vary). You must issue a response within the time period specified, unless you are technically unable to, in which case you must let us know as soon as possible. 8.2. If we accept your proposal, we will update the draft SOW and include any other matters the parties mutually agree. You should only sign the proposed SOW if you are willing to agree to its terms. 8.3. Once executed, or once work commences under an SOW (with Programmed’s approval) issued under clause 8.2, a binding agreement is formed between us and you incorporating the details of the SOW as well as the MVA. 8.4. Any Service Specific Terms will be agreed as part of the SOW.
<p>9. Ordered Services or Goods</p> <hr/> <p>i Orders can be issued under a MVA, SOW or other Vendor Agreement. I.e.:</p> <ol style="list-style-type: none"> 1. MVA + SOW + Order <p>i An order may be labelled as a purchase order or work order (see definitions).</p> <hr/>	<ol style="list-style-type: none"> 9.1. Programmed may order Services or Goods from you from time to time by issuing you with a suitably detailed Order. 9.2. The Order must be based on a proposal or quote provided by you, which must be provided in the format requested by us. 9.3. If you consider that any Order is insufficiently detailed or incomplete, you must notify us as soon as possible so as not to cause delay to the Goods or Services. 9.4. Where we issue an Order pursuant to this clause, a binding agreement is formed between us and you incorporating details of the Order as well as the MVA.
<p>10. Other Vendor Agreement</p> <hr/> <p>i We can agree Subcontracted Services (e.g., project works that require specific detail) from you through Vendor Agreement if we are not using a MVA or SOW.</p> <hr/>	<ol style="list-style-type: none"> 10.1. In some circumstances we may wish to order Services or Goods from you using a mechanism other than a SOW or an Order by using a Vendor Agreement tailored to particular circumstances (Subcontracted Services). 10.2. Programmed may order Subcontracted Services from the you from time to time by issuing you with a request for proposal, quote or draft Vendor Agreement, in which case, you will prepare and submit a response to us (including a proposal and quote) in the format requested (which may vary). You must issue a response within the time specified on the request for proposal, quote or draft Vendor Agreement, unless you are technically unable to, in which case you must let us know as soon as possible. 10.3. If we accept your proposal, we will prepare a Vendor Agreement. You should only sign the proposed Vendor Agreement if you are willing to agree to its terms (including any Customer Requirements). 10.4. Once executed, a binding agreement is formed between us and you incorporating the details of the Vendor Agreement as well as the MVA.

CONTRACT DELIVERY AND MANAGEMENT	
<p>11.Representatives</p>	<p>11.1. Each party will appoint a Representative who will be responsible for administering Contracts on behalf of that party (as specified in the Contract Details). Please notify us of any new Representative as soon as reasonably possible.</p>
<p>12.Affiliated Companies</p> <hr/> <p>i It's possible that you may be able to supply to our related entities.</p> <hr/>	<p>12.1. Programmed enters into this MVA on its own behalf and as agent for and on behalf of each Affiliated Company.</p> <p>12.2. We may require you to supply Goods or Services to an Affiliated Company who may order Services as per clauses 7 to 10. We can also choose to on-supply Goods or Services to an Affiliated Company ourselves.</p> <p>12.3. We may sublicense any Intellectual Property Rights in the Goods or Services to an Affiliated Company in accordance with clause 54.</p> <p>12.4. The benefit of all warranties, rights and obligations of the Vendor under a Contract may be exercised by Programmed for and on behalf of each Affiliated Company and are deemed to be available to each Affiliated Company of Programmed.</p> <p>12.5. We can enforce a Contract on behalf of an Affiliated Company. An Affiliated Company may also enforce a Contract (including any warranties, rights and remedies) in relation to Goods or Services supplied by you to that Affiliated Company by you (either directly or indirectly through us) on its own behalf.</p>
<p>13.Variations</p> <hr/> <p>i Flexibility is needed to vary this Contract so that we can quickly meet changing requirements under Customer Contracts.</p> <hr/> <p>i There is a process for varying the Contract and pricing any change.</p> <hr/>	<p>Variation of the Services or Goods</p> <p>13.1. From time to time we may ask you in writing (a Variation Notice) to:</p> <p>13.1.1. increase, decrease, add, remove or change any part of the Services or Goods; and/or</p> <p>13.1.2. supply (or use a subcontractor to supply) additional Services or Goods, (each a Variation).</p> <p>13.2. If you receive a Variation Notice, you must tell us within five (5) Business Days (or other timeframe if we agree in writing) what you estimate the impact of the Variation on (1) the Service Charges (i.e., the proposed price of the Variation) and (2) any impacts on timeframes, potential delays and/or achievement of milestones.</p> <p>13.3. Within 10 Business Days of receiving the information requested in clause 13.2 we will tell you in writing whether we wish to proceed with the Variation or not, and if we need additional information.</p> <p>13.4. Programmed must agree the cost of any Variation in writing before you proceed. Unless otherwise approved by Programmed, the costs of labour and materials relating to performance of the Variation must be in line with the Schedule of Rates (or other formula specified).</p> <p>13.5. The Variation and related pricing changes that are agreed in writing by the parties are deemed to form part of the agreement for provision of Goods or Services under this MVA, and the relevant Engagement Document.</p>

CONTRACT DELIVERY AND MANAGEMENT

14.Delay

i You must monitor your progress, tell us if your work is Delayed and take action to address the Delay.

i Programmed needs flexibility in how it responds to a Delay so it can manage and meet its obligations under the Customer Contract.

Delays

14.1. You must monitor the performance of your Services and delivery of Goods and:

- 14.1.1. promptly tell us about any Delay which has a material impact on progress of the Services or Goods delivery as soon as practicable after you become aware of the Delay; and
- 14.1.2. otherwise report on progress, achievement of milestones and any other issues (actual or potential).

Action to address Delay

14.2. Where a Delay occurs in respect of any Services or Goods the Vendor must:

- 14.2.1. take all steps reasonably required to address the failure to (i) prevent it re-occurring and (ii) to mitigate the consequences the failure;
- 14.2.2. where required, implement a work around procedure so you can restore performance of the Services or delivery of Goods (if relevant) to the levels required by the KPIs; and
- 14.2.3. If the Delay is reportable under clause 14.1 you must meet with our Representative as soon as possible and comply (and ensure your Vendor Personnel) with any reasonable Direction that we issue to you about the Delay.

Consequences of Delays

14.3. To the extent that you, your employees or subcontractors cause a Delay, Programmed may do any of the following (in our reasonable discretion having regard to the circumstances, and without limiting any other rights under a Contract):

- 14.3.1. withhold any payment due for completion of any milestone which has not been completed as a consequence of the Delay; or
- 14.3.2. give you an extension of time to complete a milestone which is impacted by the Delay; or
- 14.3.3. invoke termination rights in accordance with clause 57.

14.4. Where Programmed allows for an extension of time, the Vendor must revise and resubmit any applicable schedule of milestones to reflect that extension of time.

15.Site Access

i You must inspect and accept the condition of a Site.

15.1. Programmed does not make any representations or warranties to you about any Site or Building Service Equipment. You are responsible for inspecting (and undertaking your own due diligence about) a Site and/or Building Service Equipment.

15.2. You accept the condition of the Site and Building Service Equipment.

CONTRACT DELIVERY AND MANAGEMENT

	<p>15.3. Subject to clause 15.6, we will give you Site access if needed to perform Services or deliver Goods (provided that you, your personnel and your subcontractor comply with the terms of this Contract).</p> <p>15.4. If you are accessing a Site that is not owned or controlled by Programmed, you must:</p> <p>15.4.1. maintain good relationships with a Customer and a Customer’s tenants;</p> <p>15.4.2. provide reasonable written notice of activities which might impact a Customer, a Customer’s tenants or customers or their respective obligations under applicable leases or contracts; and</p> <p>15.4.3. take all necessary steps to minimise inconvenience to a Customer and a Customer’s tenants or customers and mitigate any adverse impacts on same.</p> <p>15.5. You and your employees, contractors, subcontractors and any other Vendor personnel must wear an identification badge (as required by Programmed or a Customer) while accessing a Site. You must immediately return any identification badges and access passes to Programmed when they are no longer needed for any reason.</p> <p>15.6. Where Programmed does not have full control of a Site (e.g. where a Site is Customer-owned), we will not be able to provide you with access greater than the access provided to us by the Customer.</p>
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<p>16. Equipment</p> <hr/> <p>i You are responsible for your own equipment.</p> <p>i With consent, you use any Programmed Equipment at your risk.</p> <hr/>	<p>Vendor Equipment</p> <p>16.1. You must provide such Vendor Equipment necessary to perform the Services or deliver Goods and must ensure that all Vendor Equipment:</p> <p>16.1.1. is fit for the purpose for which it is intended;</p> <p>16.1.2. is adequately maintained and serviced; and</p> <p>16.1.3. meets all requirements at Law.</p> <p>Programmed Equipment</p> <p>16.2. If we consent in writing, you may use Programmed Equipment necessary to perform the Services or deliver Goods (if relevant). You agree that Programmed Equipment will only be used by operators appropriately qualified and experienced in performing equivalent services or delivering equivalent goods.</p> <p>16.3. You use any Programmed Equipment entirely at your own risk.</p>
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VENDOR PERSONNEL AND SUBCONTRACTORS

<p>17. Vendor Personnel</p> <hr/> <p>i Due to the nature of the Commercial Model and the strict obligations in Customer Contracts, we need the ability to have you remove your underperforming personnel</p>	<p>Vendor’s Personnel</p> <p>17.1. You are responsible for the good conduct / performance of your employees (including Key Personnel), officers, agents, consultants, representatives and subcontractors (together Vendor Personnel) that you provide to Programme to perform the Services or deliver the Goods (if relevant).</p>
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VENDOR PERSONNEL AND SUBCONTRACTORS	
<p>or personnel acting inappropriately.</p>	<p>17.2. All Vendor Personnel must be acceptable to Programmed and/or a Customers in our reasonable discretion.</p> <p>17.3. If Programmed or a Customer is dissatisfied with the performance of any Vendor Personnel, we can notify you of the issue and give you a reasonable chance to provide a remedy. If we are still dissatisfied following your attempt at remedy, we may issue a notice to you requiring the removal of the relevant Vendor Personnel. You must promptly provide a suitable replacement at your cost.</p> <p>17.4. Notwithstanding clauses 17.2 and 17.3, Programmed reserves the right to direct you to remove any Vendor Personnel from the Site or from providing the Goods or Services if (in either Programmed or a Customer’s opinion) the relevant Vendor Personnel is unsuitable.</p> <p>Replacement of Key Personnel and Representative</p> <p>17.5. The Vendor must ensure its Representative and Key Personnel are available to provide the Goods or Services. If the Representative or any Key Personnel need to be replaced, the Vendor must promptly arrange for a replacement by a person of comparable competence, to be approved by Programmed (we will not unreasonably withhold or delay approval).</p>
<p>18.Subcontracting</p> <hr/> <p>i Due to the Commercial Model and Customer Contracts, Programmed needs to be able to manage if (and how) its Vendors use subcontractors.</p> <p>i You must include Customer Requirements in your vendor contract.</p> <p>i You must exclude (to the extent you can under Law) Proportionate Liability Legislation.</p>	<p>18.1. You must not subcontract any of your obligations under this Contract without our prior written consent.</p> <p>18.2. If you propose to subcontract the delivery of the Goods or Services, Programmed may nominate a preferred subcontractor that you must invite to submit a quote to perform the part of the Services or delivery of Goods for your consideration.</p> <p>18.3. If Programmed consents to the Vendor subcontracting its obligations under this Contract, the Vendor:</p> <p>18.3.1. remains primarily liable to Programmed for:</p> <ul style="list-style-type: none"> a. the performance of the Services or delivery of Goods under a Contract; and b. the acts and omissions of its subcontractor as if they were acts and omissions of the Vendor; <p>18.3.2. agrees that as a condition of granting approval Programmed may request the Vendor to provide a copy of the proposed subcontract agreement including pricing, certificates of currency as evidence of insurance as well as any other documents or information reasonably requested by Programmed;</p> <p>18.3.3. must ensure any agreement with its subcontractor at least contains:</p> <ul style="list-style-type: none"> a. a clause which makes it clear that the subcontractor is aware of and will comply with the Vendor’s obligations under this Contract (unless agreed with us in writing that these do not apply to the subcontractor); b. a requirement to comply with the insurance requirements set out in this Contract (unless the insurance requirements are not relevant to the

VENDOR PERSONNEL AND SUBCONTRACTORS


	<p>Services or Goods and you have notified Programmed of that fact and Programmed has agreed in writing);</p> <ul style="list-style-type: none"> c. a clause which allows for the novation of the subcontract to Programmed or a nominee of Programmed; d. a clause which allows for the termination of the subcontract where this Contract is terminated or expires or where a Customer requires the subcontractor to cease supplying Services or Goods; and e. any other Customer Requirements and/or other clauses required by any applicable Engagement Document; and <p>18.3.4. must ensure that any agreement with a subcontractor includes any Customer Requirements and excludes (to the extent permitted by law) the operation of the Proportionate Liability Legislation in relation to all and any rights, obligations and liabilities under such agreement (whether such rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise).</p>
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PERFORMANCE AND STANDARDS

<p>19. Performance, Quality Standards and IT Systems</p> <hr/> <p>i You must meet certain performance standards if you supply Services (or Goods, if relevant) to us.</p> <p>i You must comply with requirements of relevant authorities, laws & regulations, Programmed and Customer policies which apply to you.</p> <p>i We suggest you (1) review the Definitions section to check what these are and (2) review your SOW or Vendor Agreement for further guidance and (3) talk to us if you have questions about how Programmed's Policies apply to you.</p> <p>i The SOW or Vendor Agreement will tell you if KPI's (i.e. key performance indicators) apply to your engagement and, if they do apply, what these KPIs are.</p>	<ul style="list-style-type: none"> 19.1. In performing the Services under a Contract, the Vendor must: <ul style="list-style-type: none"> 19.1.1. provide the Services in a proper, workmanlike, timely and efficient manner and in accordance with Good Industry Practice; 19.1.2. provide the Services or Goods with all the skill, care and diligence expected of a qualified, competent and expert provider of the Services or Goods; 19.1.3. ensure that all Vendor Personnel and Vendor's subcontractors are appropriately qualified and experienced to perform the Services or provide the Goods, and act in a professional manner at all times in performing the Services or providing the Goods; 19.1.4. provide the Goods and/or Services in accordance with all applicable: <ul style="list-style-type: none"> a. Laws and the requirements of all Relevant Authorities (including in relation to all applicable permits, licenses, authorisations, accreditations, industrial awards and industrial relations obligations, environmental requirements, and security obligations); and b. Programmed Policies and Customer Policies, standards and procedures relating to a Site (including but not limited to any invoicing or payment systems which must be used as Directed by Programmed), any Directions given by Programmed and/or the Customer (which are not wholly unreasonable), and procure that all Vendor Personnel and Vendor subcontractors do the same; 19.1.5. ensure the Goods or Services are fit for their intended purpose, comply with the KPIs (if any), and comply with requirements, procedures and processes specified for each such Service; 19.1.6. exercise proper diligence and act in good faith and in the best interests of Programmed in providing the Goods or Services;
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PERFORMANCE AND STANDARDS

	<p>19.1.7. keep Programmed informed of all matters of which Programmed ought reasonably be made aware (including those which may have a material impact on the way Programmed conducts its business and as otherwise reasonably required by Programmed from time to time);</p> <p>19.1.8. use its best endeavours to prevent nuisance and unreasonable noise and disturbance;</p> <p>19.1.9. perform the Services or provide the Goods at its own risk and take all reasonable measures necessary to minimise the risk of damage to people and property;</p> <p>19.1.10. keep the Site clean and tidy and remove all rubbish and (unless otherwise agreed in writing) all materials, plant and equipment from the Site at the end of each day work day;</p> <p>19.1.11. co-operate with Programmed and provide all assistance as is reasonably required by Programmed from time to time;</p> <p>19.1.12. ensure that all Vendor Personnel and subcontractors who provide the Goods or Services on the Site conduct themselves in an appropriate, respectful and courteous (including being reasonably clean and tidy);</p> <p>19.1.13. use best endeavours to comply with directions in respect of any industrial matters which Programmed may reasonably give from time to time, provided that such directions do not constitute material diversions from the scope of the Services; and</p> <p>19.1.14. ensure that all Vendor Equipment is fit for the purpose and for achieving the KPIs, and is operated by licensed operators as required.</p> <p>19.2. The Services must comply with and/or be provided in accordance with the Quality Standards specified in any Engagement Document.</p> <p>19.3. You acknowledge and agree that you, your Vendor Personnel and your subcontractors will use or interact with any IT System nominated by Programmed and/or its Customer (as applicable). When using or interacting with any IT System you will take all required steps consistent with good industry practice to maintain and protect the security of that IT System to the standards set out in clause 53.3 to the extent you, your Vendor Personnel or your subcontractors interact with it. You acknowledge that if this requirement will impose an additional cost on you that you will raise that cost as soon as you are aware and include it (for review) in any pricing that you provide to us.</p>
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<p>20.Goods</p> <hr/> <p> This clause applies if you supply Goods to us.</p> <hr/>	<p>20.1. If you are providing Goods (including as part of the Services), you warrant and represent that:</p> <p>20.1.1. The Goods will:</p> <ul style="list-style-type: none"> a. be new (unless we agree otherwise); b. be of merchantable quality; c. comply with all Laws, applicable standards, and specifications; d. be free from defects in design, material and workmanship; and
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PERFORMANCE AND STANDARDS

	<p>e. be fit for the intended purpose of those Goods;</p> <p>20.1.2. you have good and marketable title to the Goods and the Goods will be free of any security interest, charge or encumbrance;</p> <p>20.1.3. you will obtain (at your cost) all usual trade warranties and other warranties we may request, and upon delivery or completion of the Services you will assign the benefit of any unexpired warranties to Programmed. These warranties are in addition to all statutory warranties applicable to the Goods, and any other warranties and commitments; and</p> <p>20.1.4. if any part or aspect of the Goods fails, becomes defective or does not comply with this clause 20 (Defective Goods), you must (at your cost and without delay) do all things necessary to remedy the Defective Goods (through repair, replacement, modification or other means) as determined by Programmed. If you do not rectify Defective Goods within a reasonable period, then Programmed can remedy the Defective Goods itself and recover its costs for doing so from you. Our costs in this regard will immediately become a debt due and payable by you to us.</p>
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<p>21.Delivery, Title & Risk</p> <hr/> <p>i We own the Goods upon the earlier of delivery or payment, but you are responsible for them until you deliver them.</p> <hr/>	<p>21.1. You must deliver the Goods to the delivery point by the delivery date, as specified by Programmed.</p> <p>21.2. Title to and property in the Goods immediately passes to Programmed on the earlier of payment of the price or delivery to the Site.</p> <p>21.3. Risk in any Goods remains with the Vendor until delivery to Site.</p>
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DAMAGE TO PROPERTY AND/OR INJURY TO PERSONS

<p>22.Damage to property and/or injury to persons</p> <hr/> <p>i If you cause damage or injury to property or persons, it is expected that your public liability insurance should be in place to cover these liabilities.</p> <hr/> <p>i Your liability is reduced to the extent we negligently contributed to the damage or injury.</p> <hr/>	<p>22.1. Where there is damage to any property (including damage to public utilities or services on the Site) or breach of occupational health and safety requirements related to the Services or provision of Goods (if relevant), the Vendor will promptly:</p> <p>22.1.1. report the damage or breach to Programmed; and</p> <p>22.1.2. at the Vendor’s cost, make good any damage.</p> <p>22.2. Despite clause 22.1, the Vendor indemnifies Programmed against:</p> <p>22.2.1. loss or damage to the Site and/or Programmed’s property; and</p> <p>22.2.2. claims in respect of personal injury or death or loss of, or damage to, any other property (including Customer property or any other third-party property), related to the Services or provision of Goods (if relevant), provided that the indemnity be reduced proportionally to the extent that the relevant damage or injury was caused or contributed to by the negligent act or omission of Programmed or its employees.</p>
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COMPLIANCE

<p>23.Compliance with Law</p>	<p>23.1. You must comply with applicable Law.</p>
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COMPLIANCE	
<p>i You must not do something unlawful.</p>	<p>23.2. You will not do or refrain from doing something that would cause Programmed and/or a Customer to contravene a requirement under Law.</p> <p>23.3. You agree to ensure that all Vendor Personnel will also comply with clause 23.</p>
<p>24. Work Health & Safety</p> <p>i You must follow WHS rules, regulations and policies and perform your work in a way that minimises the likelihood of an WHS incident happening.</p> <p>i If an WHS incident does happen, you need to notify us and act quickly (otherwise we can step in and act on your behalf at your cost).</p>	<p>24.1. The Vendor will be responsible for:</p> <p>24.1.1. complying with Programmed Policies, Customer Policies, Customer Requirements, the Site occupational health and safety policies requirements and any Directions from Programmed relating to occupational health and safety issued at its discretion from time to time;</p> <p>24.1.2. the health and safety of all Vendor Personnel, subcontractors or other people it invites on to the Site; and</p> <p>24.1.3. complying with all applicable occupational health and safety requirements required by Law.</p> <p>WHS obligations before commencing the Services or Goods delivery (if relevant)</p> <p>24.2. You must comply with the health, safety and environment requirements of the Subcontractor Handbook including preparing a job specific risk assessment and specific Safe Work Method Statements (SWMS) for all high-risk construction works (these SWMS must be reviewed and signed on to by all members of the work crew including any subcontracted employees).</p> <p>24.3. Before commencing any Services, you must:</p> <p>24.3.1. prepare a Site-Specific Work Method Statement (SWMS) which is completed to the satisfaction of Programmed (acting reasonably) in respect of those Services;</p> <p>24.3.2. ensure all Vendor Personnel receive a Site specific induction, based on the Site Specific Work Method Statement. Where notified by Programmed, a nominated employee of Programmed will facilitate the induction as part of the first toolbox meeting; and</p> <p>24.3.3. undertake a corporate induction designed by Programmed (and/or a Customer) during which the Vendor will be issued with appropriate current documentation by Programmed. From time to time, the Vendor will be required by Programmed to undertake further occupational health and safety training.</p> <p>Incidents</p> <p>24.4. You must immediately notify us (including the Programmed Representative) of any occupational health and safety incidents, near misses, or hazards you are aware of, of which you become aware of at the Site.</p> <p>24.5. You must comply with all occupational health and safety requirements (including but not limited to corrective actions) as notified by Programmed from time to time.</p>

COMPLIANCE	
	<p>24.6. Upon request, you must provide us with reports or information in respect of any occupational health and safety incidents, near misses, or hazards at the Site.</p> <p>Urgent action and investigation</p> <p>24.7. If we think it is necessary, Programmed (and/or a third party) may immediately access a Site to investigate a possible occupational health and safety risk and/or undertake any urgent action relating to the occupational health and safety of any person on the Site.</p> <p>24.8. If we take urgent action as a result of your act, default or omission (or that of Vendor Personnel) then any costs of the urgent action incurred by Programmed will be a debt due from the Vendor to Programmed.</p> <p>24.9. If we reasonably believe an occupational health and safety incident has occurred, Programmed may investigate or may appoint an independent third-party to investigate and provide a report in relation to the same. You agree to cooperate with the investigator's reasonable requests including the provision of relevant Records.</p>
<p>25.Environment and hazardous materials</p> <hr/> <p>i You must protect the environment while performing your work.</p> <p>i You must handle hazardous materials with care and have proper storage.</p> <hr/>	<p>25.1. When you perform the Services or deliver Goods, you are responsible for protecting the environment (including air, water and soil). You must provide all materials and equipment and take all measures necessary to protect the environment while performing the Services, and comply with all relevant environment protection Law, Programmed Policy and/or Customer Policy.</p> <p>25.2. You must store all hazardous waste connected to your performance of the Services (including used oil, contaminated or uncontaminated refrigerant and PCBs) securely and remove same.</p> <p>25.3. You must not disturb any potential heritage or indigenous artefacts.</p> <p>25.4. Unless expressly required under an Engagement Document:</p> <p>25.4.1. you are not responsible for clean-up of Hazardous Materials already existing on the Site before you commenced performing the Services at the Site;</p> <p>25.4.2. we will notify you promptly if we become aware of any Hazardous Materials in or on the Site; and</p> <p>25.4.3. if you notice Hazardous Materials, tell us immediately and stop work in the affected area.</p>
<p>26.Anti-corruption and Modern Slavery</p> <hr/> <p>i You must comply with anti-corruption and modern slavery laws and principles.</p> <p>i You must tell us if you breach these laws or principles.</p> <hr/>	<p>26.1. The Vendor represents, warrants and agrees that it has not (and that any Vendor Personnel have not) authorised, offered, promised or given anything of value to any:</p> <p>26.1.1. Government Official in order to influence official action; or</p> <p>26.1.2. person (whether or not a Government Official) to influence that person to Act Improperly, relating to Programmed or this Contract (and that it will not do same in the future and will ensure that the Vendor Personnel will not do same in the future).</p>

COMPLIANCE	
	<p>26.2. The Vendor warrants that neither the Vendor, nor any of its subcontractors or supply chain, is involved in slavery, forced labour, wage exploitation, involuntary servitude, debt bondage, human trafficking, child labour or other slavery like exploitation (Modern Slavery).</p> <p>26.3. The Vendor warrants that neither it nor any of its related entities, Vendor Personnel or supply chains has engaged in any form of bribery or corruption under Anti-corruption Laws (including in relation to this Contract), or has been convicted of, or has been the subject of any investigation, inquiry or proceedings regarding any form of bribery or corruption under Anti-corruption Laws or any form of Modern Slavery.</p> <p>26.4. The Vendor must implement a system aligned with good industry practice to assess, monitor, evaluate and remediate Modern Slavery risk in its business and supply chains, and tell us promptly as soon as it becomes aware of any actual or suspected Modern Slavery or breach of Anti-corruption Laws connected to the Contract.</p> <p>26.5. The Vendor must keep records evidencing its compliance with this clause 26, and when requested by Programmed, provide us with your reasonable assistance in preparing our modern slavery statements and otherwise comply with our Modern Slavery obligations at law (including access to your records).</p> <p>26.6. You agree that we can Audit your compliance with this clause 26 once per year or at any other time on reasonable grounds.</p> <p>26.7. We can immediately terminate this Contract (including any Engagement) if you breach this clause 26.</p>
<p>27. Industrial Relations</p> <hr/> <p>i Please tell us if employment / industrial issues come up that impact this Contract.</p> <hr/>	<p>27.1. You must employ and remunerate Vendor Personnel in accordance with applicable Law and provide evidence of the employment and remuneration of the Vendor personnel to Programmed if required.</p> <p>27.2. You must promptly notify Programmed's Representative of any industrial claim, dispute or disturbance arising in connection with the Services or the Contract; and</p> <p>27.3. You must do all things reasonably necessary to maintain good industrial relations with Vendor Personnel employed in connection with the Services.</p>
<p>28. Criminal History, Working with Children and Vulnerable Persons Checks</p> <hr/> <p>i Criminal history checks (and working with children / vulnerable persons checks where required) are needed to work on Site.</p> <hr/>	<p>28.1. All Vendor Personnel entering the Site must have a valid criminal history check, unless waived by Programmed in writing.</p> <p>28.2. You must tell us immediately if any criminal history check shows that its Vendor Personnel have committed a criminal offence punishable by imprisonment. We may ask you to remove the relevant Vendor Personnel from involvement in the Contract.</p> <p>28.3. You must ensure that all Vendor Personnel and subcontractors attending a Site where children are present have a valid 'Working with Children' card on his or her person at all times.</p> <p>28.4. You must ensure that you comply with all Laws relating to Vulnerable Persons and that all Vendor Personnel attending a site with Vulnerable</p>

COMPLIANCE	
	Persons have (a) a valid police check and (b) is not prevented by law from being employed or engaged in any capacity where they may make contact with Vulnerable Persons.
<p>29.Ethics, Values and Governance.</p> <hr/> <p>i Please familiarise yourself and ensure you comply with our values, as well as our Contractor Essentials Page and our Subcontractor Handbook.</p> <hr/>	<p>29.1. You agree to ensure that you, your Vendor Personnel act in accordance with Programmed’s values as follows:</p> <p>29.1.1. personal safety leadership;</p> <p>29.1.2. care and empathy;</p> <p>29.1.3. customer service; and</p> <p>29.1.4. diversity, inclusion and equality,</p> <p>and any other values identified at programmed.com.au/about/our-values/ or as otherwise notified to you in writing from time to time.</p> <p>29.2. You agree to comply with all environmental, social and governance (ESG) obligations specified in our Subcontractor Handbook or other Programmed Policy, or as otherwise included on the ‘Contractor Essentials Page’ at programmed.com.au (which we can update from time to time at our discretion) (the Contractor Essentials Page).</p> <p>29.3. You acknowledge and agree that you are required to familiarise yourself, your Vendor Personnel with our Contractor Essentials Page and Subcontractor Handbook, and keep up to date with same (where you are advised of updates by Programmed).</p> <p>29.4. You will report any information where you have reasonable grounds to suspect that the information concerns misconduct (e.g. fraud, negligence, default, breach of trust and breach of duty), or an improper state of affairs or circumstances, in relation to Programmed, in accordance with Programmed’s Whistleblower Policy (which is available at https://programmed.com.au/policies/).</p>
RECORDS AND AUDITING	
<p>30.Records</p> <hr/> <p>i Keep accurate records and accounts of how you supply Services or Goods to us.</p> <hr/>	<p>30.1. You agree to maintain (a) preventative maintenance records, equipment service records, work method statements, risk assessments, material safety data sheets and other operating records relating to this Contract and (b) employee records including but not limited to personnel data, records of training, competencies, qualifications and licenses (c) other relevant records including work packs, as-builts, engineering drawings, inspection records, material and resource sheets, non-destructive testing results (Records).</p> <p>30.2. You will keep separate, comprehensive, true and accurate records and accounts (including all source documents such timesheets and invoices) of (1) the Services or Goods and (2) all transactions in connection with the Services or Goods (Accounts).</p> <p>30.3. You will keep Records and Accounts for not less than 7 years after termination or expiry of this Contract.</p>

RECORDS AND AUDITING	
<p>31.Audit</p> <hr/> <p>i We can audit your records and accounts that relate to the work you do for us and make recommendations and reverse incorrect charges. This visibility helps us manage service delivery and margins under Customer Contracts.</p> <hr/>	<p>31.1. At Programmed (or a Customer’s) reasonable request, the Vendor will give Programmed (or a third party selected by Programmed) access to the Records and Accounts for the purpose of (1) inspection and verification of the Vendor’s compliance with its Contractual obligations and (2) monitoring the implementation of the Services (Audit), including taking extracts or making copies that Programmed considers appropriate.</p> <p>31.2. After completing an Audit, Programmed (or the third party auditor) will prepare a written report setting out the findings, conclusions and recommendations for changes to the Vendor’s practices and procedures in relation to its provision of the Services.</p> <p>31.3. We will review the report and (if necessary) will meet with you to discuss and agree appropriate changes to your practices and procedures arising from the results of the Audit.</p> <p>31.4. If any Audit reveals that you are in breach of this Contract the costs of the Audit will be a debt due and payable to Programmed.</p> <p>31.5. We will review the report and (if necessary) will meet with you to discuss and agree appropriate changes to your practices and procedures arising from the results of the Audit.</p>
<p>32.Survival</p>	<p>32.1. Clauses 30 and 31 survive termination of this Contract for seven (7) years (but an Audit can only be carried out up to 2 years following termination or expiry of the Contract).</p>
FINANCIAL TERMS	
<p>33.Services Charges</p> <hr/> <p>i The Services Charges are specified in the SOW, other Vendor Agreement or Order, and reflect all costs we will incur and are fixed for the Term (unless together we agree to change them).</p> <hr/>	<p>33.1. Unless otherwise agreed in writing by the parties (and excluding any terms provided by the Vendor together with any invoice and which are not agreed by Programmed in writing), the Service Charges and the rates in the Schedule of Rates (where applicable) reflect the cost of providing the Services including:</p> <p>33.1.1. Your time costs for performing the Services (and all incidental work);</p> <p>33.1.2. all other costs and expenses of the Vendor in supplying the Services;</p> <p>33.1.3. all costs and expenses of the Vendor in complying with this Contract; and</p> <p>33.1.4. all charges for Intellectual Property Rights of the Vendor or third parties relating to this Contract.</p> <p>33.2. The Vendor will pay all Taxes. You agree that Programmed is authorised to deduct or withhold any required amount from any payment to you and apply same to applicable Taxes if necessary.</p>
<p>34.Taxes other than GST</p>	<p>34.1. Except for GST, the Service Charges payable under this Contract are inclusive of any tax, duty, charge, fee or other amount (Taxes) which is imposed or levied in Australia, New Zealand or overseas in connection with the supply of Goods or Services or the performance of this Contract.</p>

FINANCIAL TERMS	
	<p>34.2. The Vendor will pay all Taxes. You agree that Programmed is authorised to deduct or withhold any required amount from any payment to you and apply same to applicable Taxes if necessary.</p>
<p>35.GST</p> <hr/> <p>i We will pay you GST.</p> <hr/>	<p>35.1. Unless otherwise specified in writing, the Service Charges and any rates in a Schedule of Rates are exclusive of GST. The Vendor may include any GST payable by it in relation to the Goods or Services in any invoice issued in accordance with this Contract.</p> <p>35.2. Subject to receiving a valid Tax Invoice in accordance with this Contract, Programmed will pay the Vendor the GST on any Taxable Supply made under this Contract, in addition to any amount (excluding GST) that is payable for that Taxable Supply, at the same time and in the same manner as the payment for the amount for that Taxable Supply.</p>
<p>36.Tax Invoices and Adjustment Notes</p> <hr/> <p>i You must provide a valid and accurate Tax Invoice so you can be paid (setting out GST).</p> <hr/>	<p>36.1. In order to be paid any amount under the Contract (including GST), you must provide us with a valid Tax Invoice (setting out the GST payable) in form required by the New Tax System (Goods and Services Tax) Act 1999 (Cth) where the Goods or Services are provided in Australia and the Goods and Services Tax Act 1985 (NZ) where the Goods or Services are provided in New Zealand.</p> <p>36.2. If an Adjustment Event occurs in relation to a Taxable Supply made under this Contract, then the price of that Taxable Supply (setting out any GST) will be adjusted accordingly and where necessary a payment will be made to reflect that Adjustment not more than 7 Business Days of the payer becoming aware of the Adjustment (subject to the Vendor issuing a notice of Adjustment).</p>
<p>37.Changes in Taxes</p>	<p>37.1. If, after the Commencement Date, the GST rate changes (including to an effective rate of zero for any particular Taxable Supply) (the New GST Rate), the parties agree that they are required to vary the GST amount that is attributable to a tax period on or after the commencement of the New GST Rate, to reflect the new amount of GST payable (if any).</p>
<p>38.Related Definitions</p>	<p>38.1. The terms “Adjustment”, “Adjustment Note”, “Adjustment Event”, “GST”, “Recipient”, “Vendor”, “Supply”, “Taxable Supply”, and “Tax Invoice” as used in this Contract have the meanings given in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) where the Goods or Services are provided in Australia or in the Goods and Services Tax Act 1985 (NZ) if they are provided in New Zealand (or equivalent meanings where the context requires).</p>
<p>39.Payment</p> <hr/> <p>i Please note: payment terms you include in your invoice are not valid. Check your Engagement Document.</p> <hr/>	<p>39.1. Subject to clause 36 we will pay a properly rendered Tax Invoice from you within the period specified in the Engagement Document. If nothing is specified that period will be 30 days from the end of the month in which a properly rendered invoice is received.</p> <p>39.2. Each Tax Invoice must accurately identify which Goods or Services it relates to, including:</p>

FINANCIAL TERMS	
	<p>39.2.1. the Contract number (where specified) and the order number specified in the Statement of Work, Vendor Agreement or the applicable Order;</p> <p>39.2.2. details of any Liquidated Damages which are applicable to that invoice; and</p> <p>39.2.3. any supporting information for the claim reasonably required by Programmed.</p> <p>39.3. If we receive a tax invoice that purports to be from you (i.e. says it is from you) and we pay that invoice, then (so long as we have not been negligent in accepting that invoice) that payment is deemed to be made to you and you cannot claim that you have not been paid.</p>
<p>40. Conditions to Payment</p> <hr style="border: 0.5px solid #ccc; margin: 5px 0;"/> <p>i We can withhold payment for your material breach until you resolve it.</p>	<p>40.1. If you breach a material provision of this Contract, then (without prejudice to any other right or remedy that we may have) Programmed may withhold payment of so much of the invoiced amount that relates to the impacted Service until the breach has been remedied or the matter has resolved (including by a determination pursuant to the dispute resolution process in clause 61).</p> <p>40.2. Any amount we pay you is not to be taken as a waiver by us of any of our rights under this Contract.</p>
<p>41. Disputed Payments</p> <hr style="border: 0.5px solid #ccc; margin: 5px 0;"/> <p>i We must pay you all undisputed amounts in accordance with our payment terms. Disputed amounts will be referred to dispute resolution.</p>	<p>41.1. If Programmed disputes part or all of your Tax Invoice (a Disputed Amount), then:</p> <p>41.1.1. we will notify you of the Disputed Amount as soon as reasonably possible and say why we think we do not have to pay the Disputed Amount;</p> <p>41.1.2. you will cancel the disputed invoice and reissue two separate invoices – one for the Disputed Amount and another for the undisputed amount. We will then pay the undisputed amount in accordance with the Contract;</p> <p>41.1.3. we will refer the issue of the Disputed Amount to dispute resolution under clause 61 and, upon resolution, pay any amount determined or agreed to be payable to the Vendor within 7 days of that determination or agreement.</p>
<p>42. Set-off</p>	<p>42.1. Without prejudice to any other right or remedy that we may have, we may set off any amount (including any overpayment we have made to you for any reason) that you owe us under this Contract against any amount you are required to pay or credit to us under this Contract but have not done so (including Service Credits and Liquidated Damages). We will notify you and you may provide feedback prior to any set off.</p>

SECURITY OF PAYMENT LEGISLATION	
<p>43. Security of Payment Legislation</p> <hr/> <p>i Security of Payment Legislation provides protection for contractors who carry out construction work through a process to recover payment.</p> <hr/>	<p>43.1. This clause applies to the extent that a Security of Payment Act applies to the Services.</p> <p>43.2. You must provide any and all written communication relating to the Security of Payment Act (including, without limitation, a payment claim under the Security of Payment Act), to our Representative.</p> <p>43.3. The date prescribed as the time for payment is the “reference date” under the Security of Payment Act (if applicable).</p> <p>43.4. A payment amount in a payment schedule which Programmed proposes to make to the Vendor is a 'progress payment' (as defined in the Security of Payment Act).</p> <p>43.5. If Programmed Representative fails to set out an amount which Programmed is entitled to retain, deduct, withhold or set-off from the amount which would otherwise be payable to the Vendor, this does not prejudice Programmed's right to subsequently exercise that right to retain, deduct, withhold or set-off any amount.</p> <p>43.6. Unless an earlier date is identified in this Contract, Programmed will pay the amount (if any) set out in a payment schedule in accordance with the timeframes required by the applicable Security of Payment Act.</p> <p>43.7. The authorised nominated authority to adjudicate an application under the Security of Payment Act will be the Resolution Institute, the RICS Dispute Resolution Service or Rialto Adjudications (Adjudicator).</p>
RISK ALLOCATION	
<p>44. Security for Performance</p> <hr/> <p>i Security is not applicable to you unless security is agreed as part of an Order, SOW or Vendor Agreement</p> <hr/>	<p>44.1. If agreed in any Engagement Document, you must provide us with the required security (such as an unconditional irrevocable bank guarantee in the form and amount required by Programmed, retention monies, parent company guarantee in the form required and agreed, or such other security as Programmed reasonably requests) for performing your obligations.</p> <p>44.2. If you fail to comply with any requirement in this Contract, then without prejudice to any other rights that Programmed may have in respect of that non-compliance, Programmed is entitled to draw (or in respect of a parent company guarantee or other guarantee, seek recourse) on the security (without notice) or any part of it for Programmed’s own use as compensation for any damages, loss, costs or expense incurred by Programmed resulting from your failure or Programmed having to end this Contract (including cancelling any Engagement), or take over your obligations.</p>
<p>45. Warranties</p> <hr/> <p>i Mutual warranties mean we each make the same warranties to one another.</p> <p>i You also make specific warranties to us (and which we can rely on) about how</p>	<p>Mutual Warranties</p> <p>45.1. Each party warrants to the other that:</p> <p>45.1.1. it has the power and authority to enter into this Contract;</p> <p>45.1.2. its performance of its obligations under this Contract will not contravene its constituent documents, or any contract or undertaking by which it is bound;</p> <p>45.1.3. this Contract has been duly signed and delivered on its behalf; and</p>

RISK ALLOCATION

you will provide the Goods or Services.

45.1.4. obligations it undertakes under this Contract are enforceable against it in accordance with the terms.

Vendor Warranties

45.2. You warrant to Programmed that:

45.2.1. you will provide all Good and Services using all due skill, care and diligence required by this Contract and in accordance with Good Industry Practice;

45.2.2. you will ensure all Vendor Personnel are (1) efficient and honest; (2) compliant with Programmed Policies and Customer Policies while on Site; (3) are competent and have all necessary licenses, qualifications, expertise and experience to provide the Goods or Services; and (4) not engaging (and will not engage) in any action, public announcement or conduct which may adversely impact Programmed or its Customer’s interests or reputation.

45.2.3. you have the rights, necessary licenses and authority to provide the Goods or Services to Programmed;

45.2.4. other than as provided for in a Contract (including any SOW), there will be no encumbrances, obligations, agreements or contracts that may affect Programmed or any Affiliated Company’s use of any Goods or Services in relation to Intellectual Property Rights;

45.2.5. the Goods or Services will be fit for their intended purposes (as specified in or as can be reasonably inferred from a Contract or any use of goods or services of the same or similar time and configuration);

45.2.6. all information you provide to us prior to entering Engagement is true and correct in every respect and is not misleading or deceptive at the time it is provided, and you have not withheld any information or failed to create or correct any information or material which might reasonably be considered to be material to Programmed in determining whether or not to engage you to provide the Goods or Services, or the price at which, or the terms on which, Programmed would be prepared to obtain the Goods or Services from you.

45.3. where the Goods or Services include a design component, preparation of specifications or Documentation, the Vendor:

45.3.1. must prepare all detailed design, specification and other documentation required by the Statement of Work or Vendor Agreement; and

45.3.2. warrants that the preparation of the design, specification and other documentation will be carried out with all necessary care and skill; will comply with the requirements of this Contract (including the Engagement Document); will be fit for the intended purposes; and will not contain a Design Defect for the Defects Liability Period.

45.4. Programmed’s approval of any design, specifications or other documentation prepared by the Vendor will not relieve the Vendor of the responsibility in respect of same.

45.5. You will obtain (at your cost) all usual trade warranties and any warranties we specifically request. You agree that on expiry of the Term or earlier termination of this Contract, you will assign the benefit of any unexpired warranties to Programmed.

45.6. These warranties are in addition to any applicable statutory warranties.

DEFECTS

<p>46. Defects</p> <hr/> <p>i You must be responsible for defective work. Your defect liability period will be set out in a specific Order, SOW or Vendor Agreement.</p> <hr/>	<p>46.1. If we find a Defect in any Service either after you have performed them under this Contract or during the Defects Liability Period:</p> <p>46.1.1. We can provide you with notice to make good the Defect or re-perform the affected Goods or Services at no additional cost to Programmed within the time period set out in the notice; or</p> <p>46.1.2. If we reasonably consider it is necessary to immediately make good the Defect, we will notify you that we may make good or engage another subcontractor to make good the Defect and any costs incurred will be a debt due and payable by you to us.</p> <p>46.2. If you do not make good the Defect within the time period set out in our notice under clause 46.1.1, then Programmed will notify the Vendor that we:</p> <p>46.2.1. accept the Goods or Services with the Defect, subject to its diminution in value (which will become a debt due and payable by you to us);</p> <p>46.2.2. reject the Defective Goods or Services (you must reimburse all related costs to us); or</p> <p>46.2.3. will make good or engage another subcontractor to make good the Defect (in which case the costs of making good the Defect will be a debt due and payable by the Vendor to Programmed and you must reimburse us all other costs including Service Charges already paid).</p> <p>46.3. Where the Vendor has made good any Defect, those Goods or Services will be subject to the same Defects Liability Period as the original Goods or Services, from the date the Vendor made good the Defect.</p> <p>46.4. If Programmed decides to accept any Goods or Services with a Defect, Programmed is not bound to accept any other Goods or Services with a Defect and it does not affect any of Programmed's other rights under this Contract in respect of those Goods or Services.</p>
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INDEMNITIES

<p>47. Indemnity</p> <hr/> <p>i We typically have indemnities applying to us under Customer Contracts which in turn (due to the Commercial Model) need to be reflected in the agreements we have with our Vendors.</p> <hr/>	<p>47.1. You indemnify Programmed and each of its officers, employees, contractors and Affiliated Companies against all Losses or liability in connection with:</p> <p>47.1.1. all physical loss or damage to property, including Customer property, arising out of or resulting from the performance of the Goods or Services;</p> <p>47.1.2. any damage to, or misuse, breach, destruction, degradation, or third-party or malicious infiltration of IT Systems and/or Programmed Data arising out of or resulting from the acts or omissions of the Vendor, any Vendor Personnel;</p> <p>47.1.3. illness, death or personal injury arising out of or resulting from the performance of the Services or provision of the Goods;</p> <p>47.1.4. negligent or unlawful acts or omissions, wilful misconduct or fraud of the Vendor, any Vendor Personnel;</p> <p>47.1.5. a breach of Privacy Law or your obligations in respect of Confidential Information;</p> <p>47.1.6. your performance of the Services or provision of the Goods (including as a result of any act or omission by you, your Vendor Personnel);</p> <p>47.1.7. your breach of a Contract (or by your Vendor Personnel); and/or</p>
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INDEMNITIES	
	<p>47.2. Your liability under any indemnity in this Contract is reduced to the extent that any such Loss or damage was caused or contributed to by any negligent act or omission or wilful misconduct of Programmed.</p> <p>47.3. This Contract excludes (to the extent permitted by law) the operation of Proportionate Liability Legislation.</p>
48.Indemnities & reimbursements	<p>48.1. If a party is to indemnify, reimburse or pay a contribution to the other party, the amount the paying party must pay the other is (a) reduced by any input tax credit the other could have obtained in connection with that indemnity, reimbursement or contribution; and (b) increased by the GST the other is liable for on that indemnity, reimbursement or contribution.</p>
49.Benefit of indemnity held on trust	<p>49.1. To the extent that any indemnity in this Contract is expressed to be for the benefit of a third party, the relevant party to this Contract holds the benefit of the indemnity on trust for and on behalf of such third parties enforceable on their behalf and for their benefit in accordance with its terms.</p>
LIQUIDATED DAMAGES	
<p>50.Liquidated Damages</p> <hr/> <p>i The SOW or Vendor Agreement will contain agreed Liquidated Damages that may apply to your engagement and (if applicable to you) their amount.</p> <p>i Liquidated Damages are a genuine pre-estimate of loss we will likely suffer if you breach this Contract or fail to deliver.</p> <p>i We are often subject to strict requirements under our Customer Contracts to meet agreed milestones, KPI or performance regimes. We rely on you to comply with these regimes and expect you to take responsibility for any issues with Customers to the extent that were caused by you. You will not be responsible to the extent it was Programmed's fault.</p> <hr/>	<p>50.1. If Liquidated Damages are agreed in an Engagement Document for any Services, and you fail to achieve the agreed milestone specified in the relevant Engagement Document, then (without limiting any other right or remedy that Programmed) the Vendor will pay Programmed those Liquidated Damages for each day that the Vendor is late in achieving the agreed milestone (up to the maximum amount and the maximum days specified Engagement Document. Liquidated damages are a debt due and payable.</p> <p>50.2. You acknowledge that:</p> <p>50.2.1. any Liquidated Damages payable under this Contract are a genuine pre-estimate of the loss that is likely to be suffered by Programmed as a consequence of the breach or failure to which the Liquidated Damages relate; and</p> <p>50.2.2. in the event that the actual loss resulting from the Vendor's failure or breach exceeds the Liquidated Damages, Programmed may bring proceedings and recover damages to from the Vendor the extent of the actual loss.</p> <p>50.3. In addition to any other liability under this Contract (including the liability under clause 50), you must indemnify us against any costs, losses, expenses or damages (whether liquidated, unliquidated) which we are liable to pay (or credit) our Customer under any Customer Contract or otherwise, in respect of any failure to meet any agreed milestone, delivery date or performance regime (including KPIs or abatements) but only to the extent caused by you.</p>

INSURANCE

51. Insurance

- i** We have our own strict insurance requirements under Customer Contracts (which must be reflected in our agreement with you having regard to the work you are doing).
- i** Given the nature of the work we do it is critical for everyone’s protection that all our vendors have adequate insurance coverage).
- i** These are general terms. Engagement Document for your specific insurance requirements.
- i** You give us a warranty that you are insured with an insurer with at least an A-rating.

- 51.1. Before the Commencement Date, the Vendor must have (and provide us with certificates of currency for) the following types of insurance:
 - 51.1.1. liability insurance (including products and public liability cover) in respect of personal injury, death and property damage for not less than \$20,000,000 per occurrence.
 - 51.1.2. professional indemnity insurance (including cover for errors and omissions for not less than \$5,000,000 per claim, unless you are not carrying out Services that require professional indemnity insurance and Programmed approves that fact in writing;
 - 51.1.3. motor vehicle third party liability insurance for not less than \$10,000,000;
 - 51.1.4. insurance for physical loss and/or damage to all plant and equipment owned and/or hired and/or used by the Vendor and/or for which the Vendor is responsible for not less than \$2.5 million;
 - 51.1.5. workers compensation insurance as required by Law;
 - 51.1.6. any other insurance required under any Law, or any Engagement Document.
- 51.2. You warrant that you will obtain and maintain your insurances with a reputable insurer with a rating of at least A- as rated by Standard and Poor’s (or an equivalent reporting agency). You also warrant that you will tell us if your insurance provider drops below this required rating or of any other changes to your insurance policies. You must obtain Programmed’s written approval if you breach this warranty, prior to carrying out any Services or providing any Goods.
- 51.3. You must obtain and maintain the insurances referred to in clause 51.1 for the Term of this Contract (and in the case of professional indemnity insurance, until the date which is 7 years after the expiry or termination of this Contract). Where insurance is written on a claims basis, the insurance must be maintained until the end of the Term or the Defects Liability Period (whichever is longer).
- 51.4. You must provide a certificate of currency for each policy at the commencement of a Contract, and on request from time to time by Programmed.
- 51.5. You must tell us in writing as soon as possible about anything in connection with this Contract that may give rise to a claim under a policy of insurance required and must keep us informed of all subsequent developments concerning the claim.

CONFIDENTIALITY

52. Confidentiality

- 52.1. Each party (as a **Recipient** of Confidential Information from a disclosing party (a **Discloser**)) acknowledges that the Discloser’s Confidential Information is the Discloser’s valuable property, and that any unauthorised use or disclosure can considerably damage the Discloser.

CONFIDENTIALITY

i Mutual confidentiality obligations apply to both us and you.

- 52.2. A Recipient must:
- 52.2.1. take all reasonable steps to keep all of the Discloser’s Confidential Information confidential;
 - 52.2.2. not use or reproduce (or allow any other person to use or reproduce) the Discloser’s Confidential Information in way that is not authorised by this Contract, and not allow unauthorised persons to access the Discloser’s confidential information ;
 - 52.2.3. not disclose any of the Discloser’s Confidential Information to any third party, other than:
 - a. as allowed by this Contract, or to the Recipient’s professional advisors for Contractual advice;
 - b. to those of its employees, officers, agents, Vendors or subcontractors who need to know the information for the purposes of this Contract; or
 - c. to comply with any applicable Law,
 - 52.2.4. not allow unauthorised persons access to any of the Discloser’s Confidential Information;
 - 52.2.5. ensure that the Recipient’s representatives (including its employees, officers, agents, Vendors and subcontractors) do not do or omit to do anything which would be a breach of the Recipient’s obligations under this clause 52.
- 52.3. The Recipient must immediately notify the Discloser of any information which comes to the Recipient’s attention regarding any actual or potential breach of confidentiality, disclosure or unauthorised use of any of the Discloser’s Confidential Information.
- 52.4. A Recipient must also use reasonable endeavours to notify the Discloser of any disclosure authorised under the Contract as soon as practicable and (where possible) before the disclosure is made.

Delivery on Termination

- 52.5. Subject to clause 52.6, on termination of this Contract, the Vendor must (if so requested by the Programmed in writing) return Programmed’s Confidential Information in its possession to Programmed and delete, erase, or otherwise destroy any Confidential Information contained in computer memory, magnetic, optical, laser, electronic, or other media in the Vendor’s possession or control which is not capable of return to Programmed (other than electronic back-ups).
- 52.6. The Vendor may retain a copy of so much of Programmed’s Confidential Information it is required by Law to retain, forming part of the Vendor’s board papers, or Programmed authorises in writing (**Retained Information**) The Vendor shall continue to be bound by this clause 52 regarding Retained Information.

Acknowledgement

- 52.7. Each party acknowledges and agrees that for the purposes of a Contract:

CONFIDENTIALITY

- 52.7.1. Programmed is to be taken as the Discloser with respect to any Confidential Information of or relating to Programmed and any Personal Information relating to Programmed, a Customer or other Vendor.
- 52.7.2. The Vendor is to be taken as the Discloser with respect to any Confidential Information of or relating to the Vendor or its Related Bodies Corporate.
- 52.7.3. All of the Confidential Information continues to be governed by this clause 52 indefinitely after the Contract (or a particular SOW, Vendor Agreement or Order) ends, and until that information becomes known to the Recipient through a legal public source without restriction.
- 52.7.4. Despite anything in this clause 52, Programmed may disclose Confidential Information to a Customer in connection with the Services or Goods if required.

PRIVACY AND DATA PROTECTION

53. Your Privacy obligations

i It is important that we all understand our privacy obligations at law and in this Contract. Legal penalties in Australia have increased and this is a fast-changing landscape. If you are unsure of your obligations, we suggest you seek independent legal advice.

i We all need to protect Personal Information and Programmed Data. Please see the Definitions section for detail on what is 'Programmed Data' and 'Personal Information'.

i It's important for your personnel to be trained and for your IT systems to be set up and maintained safely (e.g. by aligning to a recognised industry standard). This will help prevent and respond to penetration by bad actors. We all need to be able to quickly respond to and contain a data breach or potential data breach.

i Please note: you don't need to be certified but your security measures must be consistent with good industry practice.

i Remember - you need our written permission to

- 53.1. You are required to comply with all Privacy Laws in respect of Personal Information (and ensure Vendor Personnel and subcontractors comply with same).
- 53.2. You, your Vendor Personnel are required to:
 - 53.2.1. only access or use Personal Information relating to Programmed, Customers or other Vendors for the purposes of fulfilling your obligations under this Contract (or with our prior written consent);
 - 53.2.2. not otherwise access, use, process, store, modify or disclose Personal Information;
 - 53.2.3. comply with Programmed's Policies (and applicable Customer Policies) concerning the collection, storage, security, use and disclosure of Personal Information and Programmed Data (including but not limited to the Privacy Policy). Programmed can update related Programmed Policies from time to time at its reasonable discretion and notify you of those updates (including without limitation to account for a Change in Law or pursuant to a government direction or Customer requirement) and can seek a related variation of this Contract if reasonably required.
 - 53.2.4. ensure that any person who is authorised to have access to any of that Personal Information and Programmed Data complies with this clause 53;
 - 53.2.5. notify Programmed if you are not, or you cease to be, bound by the Privacy Laws;
 - 53.2.6. immediately notify us at privacy@programmed.com.au (or such other address as advised from time to time) if:
 - a. it knows of or suspects unauthorised access, use, copying or disclosure of Personal Information;
 - b. it becomes aware that a disclosure of that Personal Information may be required by Law;
 - c. any Law prevents or may prevent it from performing its obligations under this clause;

PRIVACY AND DATA PROTECTION

access or transfer Programmed Data overseas. This is important (1) to protect Personal Information and (2) because some Customer Contracts do not allow overseas data access or transfer. It is very important that you talk to us before any data goes offshore

- 53.2.7. provide all assistance reasonably required by Programmed to assist Programmed to comply with its obligations under any Privacy Law in respect of the Personal Information; and
- 53.2.8. you need our (and if applicable, our Customer’s) written consent before you access, transfer, or disclose Programmed Data to anyone in any overseas jurisdiction.

Protecting Programmed Data (including Personal Information)

- 53.3. You are required to take (and ensure your third-party IT providers take) reasonable measures consistent with Good Industry Practice and that are aligned with recognised standards such as ISO27001, SOC2 or NIST Cybersecurity Framework or similar, and comply with all reasonable Directions issued by Programmed to:
 - 53.3.1. protect Programmed Data in your (or your third-party IT provider’s) possession or control or to which you have access in connection with this Contract against any loss, misuse, interference, unauthorised access, use, sale, modification or disclosure;
 - 53.3.2. secure Programmed Data in your (or your third-party IT provider’s) possession or control including through (where reasonably appropriate) encryption, network protection (such as firewalls, segregation or other network configuration that limits access), security logging, monitoring and response plans, access controls, multi-factor authentication, privileged user access, API and integration protections, data anonymisation, and maintaining security systems and procedures that comply with the Privacy Laws; and
 - 53.3.3. if for any reason you no longer require access to any of the Programmed Data you (or your third-party IT provider) holds, then you must as soon as practicable:
 - a. destroy or permanently de-identify that Programmed Data and (if we direct you to do so) provide us with satisfactory evidence that you have done so; or
 - b. if Directed to do so by us, return the Personal Information to Programmed.

Cooperation in relation to complaints and investigations

- 53.4. You are required to:
 - a. cooperate with us to resolve any complaint that alleges breach of Privacy Law;
 - b. provide us with reasonable assistance in relation to a request for information, investigation or enquiry by the Privacy Commissioner (including any data breach notification); and
 - c. provide us with reasonable assistance to help us comply with a recommendation or direction of the Office of the Australian Information Commissioner.

Programmed Data and Data Breach

- 53.5. You must:

PRIVACY AND DATA PROTECTION

- 53.5.1. notify us immediately (including by email to cyber@programmed.com.au) if you become aware of:
 - a. become aware of any likely, suspected or actual misuse or loss of, interference with or unauthorised access to, modification of, or disclosure of, Programmed Data; and/or
 - b. a breach by you (or your Vendor Personnel) that relates to Programmed Data; or
 - c. an actual or suspected breach that is a Notifiable Data Breach or is otherwise notifiable at Law,

(each a **Data Breach**);
- 53.5.2. comply with any reasonable direction we give you in relation to assessing, investigating, remedying and addressing a Data Breach. This includes (but is not limited to) providing information we request that relates to a Notifiable Data Breach);
- 53.5.3. not disclose anything relating to a Data Breach to any third-party without our express prior written approval;
- 53.5.4. tell us and cooperate with us in the event of any breach or risk regarding the security of Programmed Data; and
- 53.5.5. ensure that any person who you authorise to have access to Programmed Data complies with this clause in every respect.

Subcontractors

- 53.6. You must ensure that any subcontractor that you engage in connection with this Contract (including any SOW, Vendor Agreement or Order) is engaged on terms that contain obligations no less onerous than the provisions in this clause 53.
- 53.7. You acknowledge and agree that you are liable for any breach by any subcontractor identified in clause 54.6 of the provisions of this clause and/or Privacy Laws.

Duration of Obligations

- 53.8. Your obligations under this clause 53 continue indefinitely after this Contract (including this MVA and/or any SOW, Vendor Agreement or Order) end.

INTELLECTUAL PROPERTY

54. Ownership of Intellectual Property Rights and Licensing

i Each party continues to own its pre-existing IP (i.e. Background IP).

i Each party grants the other party a license to use IP to the extent they need to under the Contract.

- 54.1. Subject to the terms of this clause 54, all Intellectual Property Rights in the Vendor's Background IP remain vested in (i.e. the property of) the Vendor.
- 54.2. You grant Programmed a non-exclusive, perpetual, royalty-free, irrevocable, transferrable license (with the right to assign and sublicense) to use the Vendor's Background IP to the extent we need to use the Project IP.
- 54.3. You hereby assign to Programmed all Intellectual Property rights (including future copyright) in all Project IP at the time of the relevant Project IP's creation.
- 54.4. We can require you do all things needed to assign the Intellectual Property Rights in the Project IP to Programmed.

INTELLECTUAL PROPERTY	
<p>i Ownership of Project IP belongs to Programmed.</p>	<p>54.5. You are required to procure (i.e. obtain) agreement from any person (including any Vendor Personnel or other contributing party) who is an author of any Copyright Works assigned or licensed to Programmed that the relevant author will not enforce any Moral Right the author has or may have in Copyright Works.</p> <p>54.6. You acknowledge and agree that all Intellectual Property Rights in Programmed’s Technical Material and Programmed’s Background IP remain vested in Programmed.</p> <p>54.7. We hereby grant you a non-exclusive, royalty-free, revocable, non-transferrable license to use the Project IP, Programmed’s Technical Material and Programmed’s Background IP to the extent required to perform the Services for Programmed.</p>
<p>55. Intellectual Property Rights Warranties</p> <p>i The parties provide IP warranties to one another so that each party has the rights it needs to use the other party’s (or third party’s) IP in-line with the requirements of this Contract.</p>	<p>55.1. You warrant to us that:</p> <p>55.1.1. you can license the Intellectual Property Rights in your Background IP and assign Intellectual Property Rights in Project IP in accordance with clause 55.</p> <p>55.1.2. if we (or another person with our permission) uses the Vendor Background IP and Project IP, we will not be infringing the Intellectual Property Rights or Moral Rights of someone else (i.e. any third party) or be in breach of any Law;</p> <p>55.1.3. neither we (or any other person acting at our direction) is liable to pay any third-party license or other fee relating to the use of Vendor’s Background IP and Project IP.</p> <p>55.2. We warrant to you that:</p> <p>55.2.1. we can license the Property Rights in Programmed’s Background IP and Programmed’s Technical Material;</p> <p>55.2.2. if you use the Programmed’s Background IP and Programmed’s Technical Material in accordance with the Contract, you will not be infringing the Intellectual Property Rights of someone else (i.e. any third-party) or be in breach of any Law;</p> <p>55.2.3. you are not liable to pay any third-party license or other fee relating to the use of Vendor’s Background IP and Project IP.</p>
TERMINATION, SUSPENSION AND DISPUTE RESOLUTION	
<p>56. Force Majeure</p> <p>i Please see the definitions section of these General Terms for an explanation of what a ‘Force Majeure Event’ is under this Contract.</p> <p>i Rights to terminate the Contract (or provision of impacted Services / Goods) arise if a Force Majeure Event continues for more than 60 days.</p>	<p>56.1. Each party must give the other written notice of a Force Majeure Event as soon as possible after becoming aware of it (and must keep the other party updated on any changes as they unfold). The notice must specify:</p> <p>56.1.1. details of the Force Majeure Event;</p> <p>56.1.2. details of the affected party’s obligations under the Contract which are impacted by the Force Majeure Event (including which Engagement Document it affects, if any);</p> <p>56.1.3. the delay (or other required suspension) that is expected to be caused by the Force Majeure Event; and</p> <p>56.1.4. details of the action the affected party has taken or will take to mitigate that delay or suspension.</p>

TERMINATION, SUSPENSION AND DISPUTE RESOLUTION

	<p>56.2. The affected party must take reasonable steps and use best endeavours to mitigate the effects of the Force Majeure Event (including minimising any delay).</p> <p>56.3. Subject to clause 56.4, if a Force Majeure Event occurs, the timeframe for performing an obligation affected by the Force Majeure Event will be adjusted to take into account the related delay.</p> <p>56.4. If the Force Majeure Event continues for more than 60 days, then the non-affected party can give the affected party written notice requiring the affected party to (within 7 days) show reasonable cause why the non-affected party should not terminate any Service, Engagement Document being impacted by the Force Majeure Event and/or related delays or suspensions.</p> <p>56.5. If the affected party cannot show reasonable cause under clause 57.4, then the non-affected party can terminate the relevant Engagement Document or Service by written notice.</p>
<p>57. Termination for Default</p> <hr/> <p>i Your Contract (or parts of it, such as a SOW or an Order) can be terminated if you breach it (and you don't or can't rectify that breach).</p>	<p>57.1. Subject to clause 57.2, if either party commits a material breach (Breaching Party) of its obligations under this Contract or any part of it then the party that has not committed the relevant breach (Non-Breaching Party) can terminate a Contract (or any relevant part of it):</p> <p>57.1.1. after 30 days if you do not remedy the breach within that time; or</p> <p>57.1.2. immediately if the Breaching Party cannot be remedy the breach following reasonable consultation between the parties.</p> <p>57.2. A party can terminate a Contract (or any relevant part of it including the MVA, a SOW, Vendor Agreement and/or any relevant Order) immediately (following providing the other party with an opportunity to comment) and without penalty if the other party:</p> <p>57.2.1. repeatedly breaches material terms of the Contract;</p> <p>57.2.2. breaches a warranty;</p> <p>57.2.3. commits a fraudulent act or omission; or</p> <p>57.2.4. become insolvent or bankrupt.</p> <p>57.3. Programmed can terminate a Contract (or any part of a Contract) immediately (following providing you an opportunity to comment) and without penalty if you or any Vendor Personnel:</p> <p>57.3.1. subcontract all or part of the Services or provision of Goods without our consent;</p> <p>57.3.2. assign your rights or obligations under an a Contract or related Engagement Document without our consent;</p> <p>57.3.3. repeatedly fail to achieve KPIs;</p> <p>57.3.4. substantially change the nature of your business such that your ability to deliver the Services or Goods in accordance with the Contract is compromised;</p>

TERMINATION, SUSPENSION AND DISPUTE RESOLUTION

	<p>57.3.5. breach any work health and safety obligations, privacy and data-security obligations or non-compliance with any Law.</p> <p>57.4. If we terminate a Contract (or part of it) under this clause 57 we are only required to pay you any outstanding Services Charges due and payable to you as at the time of termination of this Contract or relevant part of it. Any payment we make under this clause 57.4 does not affect any other right we may have to claim costs, expenses and/or Losses that we suffer as a consequence of terminating the Contract (or part of it).</p> <p>57.5. If we terminate a Contract (or part of it) under this clause 57, you are liable for and indemnify us against any Loss of whatever nature we incur in engaging other Vendors to complete the Services or provide the Goods (but only to the extent which any such Loss exceeds the Service Charges that would have been payable to you for those Services or Goods) and any other Loss we suffer as a result of termination.</p> <p>57.6. If a purported termination for default under this clause 57 is determined by a competent authority not to be properly a termination for default, then that termination by Programmed will be deemed to be a termination for convenience under clause 58.1.</p>
<p>58. Termination for convenience</p> <hr/> <p>i Programmed needs the ability to end a Contract with you to protect its legitimate business interests.</p> <p>i Programmed needs the ability to reduce the scope of Services or Goods and/or a Contract with you to protect its legitimate business interests (e.g. if a Customer Contract changes).</p> <p>i These are general terms. Where specific costs need to be agreed, this can be done as a SOW, Order or Vendor Agreement.</p> <hr/>	<p>58.1. You acknowledge and agree that we can terminate this Contract (or any part of this Contract) by giving you 30 days' notice in writing. You will be compensated in accordance with the clauses set out below and as agreed in any Engagement Document.</p> <p>58.2. Without limiting our rights under clause 58.1, we may terminate a SOW, Order or other Vendor Agreement or reduce the scope of the Services at any time without penalty and with immediate effect by written notice to you if, for any reason whatsoever:</p> <p>58.2.1. the relevant Customer Contract expires or is terminated;</p> <p>58.2.2. the relevant Customer revokes its approval of you as a Vendor; or</p> <p>58.2.3. the scope of the Services or Goods under the relevant Customer Contract is changed such that the whole or a part of the Services or Goods are no longer required by Programmed.</p> <p>58.3. You acknowledge that clauses 58.1 and 58.2 are necessary and reasonable requirements and part of the Commercial Model.</p> <p>58.4. If we terminate a Contract (or any part of a Contract) under clause 58.1, then we will pay your reasonable and unavoidable verified direct costs of disengagement that you actually incur (excluding any redundancy payments) and any existing Service Charges 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), or as otherwise agreed in an Engagement Document.</p> <p>58.5. If we terminate or reduce the scope of a Contract under clause 58.2, then we will pay your reasonable and unavoidable verified direct costs of disengagement that you actually incur (excluding any redundancy payments) but only to the extent that such costs are first recovered from the</p>

TERMINATION, SUSPENSION AND DISPUTE RESOLUTION


	<p>Customer and less any amount we are entitled to set-off for any reason. We will also pay any existing Service Charges owing to you for Services or Goods already delivered or performed by you up to the date of termination and that remain outstanding.</p> <p>58.6. You acknowledge that you must factor into your pricing risks and costs associated with termination and that we may agree specific costs in relation to any particular Engagement (that will be set out in the relevant Engagement Document).</p>
<p>59.Termination generally</p> <hr/> <p>i These terms apply to termination for any reason.</p> <hr/>	<p>59.1. If a Contract is terminated for any reason:</p> <p>59.1.1. termination does not affect each party’s accrued rights, remedies or liabilities at the termination date;</p> <p>59.1.2. you must immediately repay any Service Charges or other fees that we have paid you in advance for any reason for Services or Goods that have not yet been provided as at the termination date;</p> <p>59.1.3. you are not entitled to any payment or compensation in relation to the termination other than as provided for in clauses 56 to 59.</p> <p>59.1.4. you must, at your cost, vacate the Site immediately (or on a date the parties agree in writing) and return to us all Intellectual Property, Confidential Information, Customer Equipment and Programmed Equipment in your possession or control (or in the possession of Vendor Personnel).</p> <p>59.1.5. and only a part of a Contract is terminated (e.g. an Engagement), then you must continue to perform the parts of your Contract (or other Contracts) that remain on foot.</p>
<p>60.Suspension</p> <hr/> <p>i Programmed needs the ability to reasonably suspend the delivery of the Services to protect its legitimate business interests.</p> <hr/>	<p>60.1. Programmed can, acting reasonably, suspend your delivery of the Services or Goods. We will also adjust any milestones or delivery dates as reasonably necessary to take the suspension into account.</p> <p>60.2. If you receive a Direction from us to suspend the Services or Goods, you must stop providing the Services or Goods until further written notice from us.</p> <p>60.3. If the suspension is not due to the Vendor’s act or omission, Programmed will reimburse you reasonable and unavoidable costs directly incurred by you as a result of the suspension (provided (i) that the suspension has put you in a worse off position had the suspension not occurred, (ii) you have experienced Loss notwithstanding the resumption of the supply of Services or Goods in the future, and (iii) you give us documented evidence of those costs).</p>
<p>61.Disputes</p> <hr/> <p>i The parties must work together in good faith to try to resolve a dispute.</p> <hr/>	<p>61.1. If a dispute arises between us and you that relates to a Contract, then the parties agree to do the following things:</p> <p>61.1.1. the party claiming a dispute has arising will give prompt written notice to the other party detailing the reasons for the dispute;</p>

TERMINATION, SUSPENSION AND DISPUTE RESOLUTION

	<p>61.1.2. the parties will act in good faith and use their best endeavours to resolve the dispute, including by referring the matter to their respective senior executives and, failing successful resolution within a reasonable timeframe, to their respective chief executives. Programmed may invite an affected Customer to participate in dispute resolution if reasonably required.</p> <p>61.1.3. If the dispute is not resolved within a reasonable time period (having regard to the circumstances, reason for and urgency of the dispute) the parties will seek to mediate the dispute.</p> <p>61.2. Neither party will commence legal proceedings (excluding seeking urgent interlocutory relief if reasonably necessary) unless the parties have made reasonable attempts to resolve the dispute in accordance with clause 61.1.</p> <p>61.3. Pending the resolution of any dispute, Programmed and the Vendor will continue to perform their obligations under a Contract without prejudice to their respective rights and remedies (except where those obligations are the subject of the dispute).</p> <p>61.4. Each party will bear their own costs of complying with clause 61 and will equally bear the cost of any mediator, joint independent expert or other third party engaged to mediate and/or resolve the dispute.</p> <p>61.5. If a dispute arises between Programmed and a Customer under a Customer Contract, you agree to do all things required by Programmed (including providing any information, attending at meetings, mediation, arbitration or court) to assist Programmed to resolve the dispute.</p> <p>61.6. If a dispute arises between a Customer and a third party that relates to any aspect of the Services or Goods, you agree to do all things required by the Customer (including providing any information, attending at meetings, meditation, arbitration or court) to assist the Customer to resolve the dispute.</p>
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MISCELLANEOUS TERMS

<p>62.Nature of relationship</p>	<p>62.1. The parties are independent contractors and nothing in a Contract makes the Vendor an employee, agent, joint venturer or partner of Programmed. The Vendor does not have authority to bind Programmed in any manner whatsoever without Programmed’s written consent.</p>
<p>63.Notices</p>	<p>63.1. Notices must be in writing, be issued or signed by an authorised person of the party giving the notice and delivered to the address specified in the Contract Details.</p> <p>63.2. Notices can be delivered or posted to the other party’s physical address, or sent by email to the email address specified as the email address for Notices in the Contract Details (or as updated in writing from time to time).</p> <p>63.3. A party receives a notice if:</p> <p>63.3.1. it is delivered to that party’s address before 5:00pm on the day of delivery, or otherwise on the next Business Day;</p> <p>63.3.2. If sent by mail, on the 3rd Business Day after posting; or</p>

MISCELLANEOUS TERMS	
	63.3.3. If transmitted by email, at the time of that transmission.
64. Counterparts	<p>64.1. A Contract may be executed in any number of counterparts and all of those counterparts taken together constitute the same instrument.</p> <p>64.2. A Contract (or any part of it) can be executed (signed) electronically.</p> <p>64.3. A Contract (or any part of it) can be exchanged electronically by way of electronic counterparts.</p>
65. Entire Agreement	<p>65.1. A Contract (which includes applicable Engagement Document(s)) contains the entire agreement between the parties in relation to the matters it deals with. No party can rely on an earlier contract, the terms of any tender or any quotation provided by the Vendor, any terms provided together with the Vendor's invoice, or any other communication whether in writing or otherwise before a Contract was executed.</p> <p>65.2. For the avoidance of doubt, no other terms or conditions (including those supplied with a quote or invoice) apply to the Goods or Services and those terms will be of no legal effect even if a representative of Programmed signs the quote or invoice to which those terms are annexed.</p>
66. Permits or Licenses	66.1. If you are required to hold any permits, licenses or other form of accreditation or consent from a Relevant Authority in relation to your delivery of the Goods or Services, you must pay for and obtain same.
67. Waiver	<p>67.1. A waiver by a party is only effective if it is in writing and accepted by the other party.</p> <p>67.2. Conduct by Programmed does not act as a waiver of any of its rights under the Contract.</p>
68. Severability	<p>68.1. If a clause is capable of being read in a way that is fair, legal, enforceable, valid or reasonable, then it must be read in that way.</p> <p>68.2. If a clause is illegal, unenforceable or invalid and cannot be assisted by clause 68.1, then it is treated as removed from a Contract (but the rest of the Contract is not affected).</p>
<p>69. Amendment</p> <hr/> <p> We may update non-material things in these General Terms from time to time. Material amendments require your agreement.</p> <hr/>	<p>69.1. Programmed can make non-material amendments (i.e. changes that do not impact your rights under this agreement) to these General Terms without your consent. Updated iterations of these General Terms will be available on the Contractor Essentials Page (https://programmed.com.au/contractor-essentials).</p> <p>69.2. Otherwise, the terms of a Contract can only be amended in writing, signed by the parties.</p>
70. Joint and several liability	70.1. If a party is more than one person (excluding Affiliated Companies), each reference in this Contract to that party is to be treated as a reference to each of those persons individually and to each of them jointly with any one or more of the others.

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71. Exclusion of liability

i For your benefit (other than in the circumstances of clause 71.2), you are not responsible for certain liabilities (e.g., consequential loss).

- 71.1. Subject to clause 71.2, the Vendor will not in any circumstances be liable for any indirect, consequential, incidental, special or exemplary damages, expenses, losses, or liabilities.
- 71.2. Clause 71.1 does not exclude, restrict, or limit in any way the Vendor’s liability to Programmed:
 - 71.2.1. in respect of any claim by, or Loss or liabilities suffered by, a Customer in connection with a head contract between Programmed and its Customer;
 - 71.2.2. that:
 - i. is wholly or partly covered by insurance proceeds that are available under insurances required by this Contract; or
 - ii. would have been wholly or partly covered by insurance proceeds under insurances required by the Contract but for any act or omission of the Vendor, including a failure by the Vendor to obtain or maintain the insurances in accordance with the Contract or a failure by the Vendor to claim and diligently pursue a claim under the relevant insurances in accordance with the Contract (or comply with the claims procedures under the relevant insurances); a failure by the Vendor or any Vendor Personnel to comply with any provision, obligation or duty under the relevant insurance policies;
 - 71.2.3. in relation to which the Vendor recovers, or would have recovered but for an act or omission of the Vendor, wholly or partly, an amount from a third party;
 - 71.2.4. in relation to personal injury or death, or damage to or loss of real or personal property;
 - 71.2.5. in relation to wilful misconduct, wilful default, wilful neglect, recklessness, gross negligence, fraud, or criminal acts or omissions of the Vendor or its Personnel;
 - 71.2.6. in relation to breaches of the Vendor’s confidentiality, privacy or data security obligations, or third-party intellectual property breaches;
 - 71.2.7. that cannot be excluded at law;
 - 71.2.8. the Vendor’s abandonment of its obligations under, or repudiation of, the Contract; and/or
 - 71.2.9. in relation to Liquidated Damages and any costs, losses, expenses or damages (whether liquidated or unliquidated) which we are liable to pay (or credit) to our Customer under any Customer Contract or otherwise, in respect of any failure to meet any agreed milestone, delivery date or performance regime (including KPIs or abatements), as specified in clause 50 (but only to the extent caused by you).

72. Assignment and Change of Control

- 72.1. The Vendor must not assign any of its rights or obligations under a Contract (including by way of a Change of Control of the Vendor), unless the Vendor first obtains Programmed’s prior written consent (which will not be unreasonably withheld).

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	<p>72.2. Programmed can assign its rights or obligations, or novate the MVA or a Contract (or part of a Contract such as an Engagement Document) without the Vendor’s consent (including but not limited to an Affiliated Company or any government entity) and we will give you notification in writing.</p> <p>72.3. For the purposes of this clause 72:</p> <p>(i) Change of Control in relation to an entity means a change in the Control of that entity such that the person who Controlled that entity prior to the change of Control ceases to Control that entity after that change of Control.</p> <p>(ii) Control has the meaning given to that term in s50AA of the <i>Corporations Act 2001</i> (Cth).</p>
73.Conflict of interest	<p>73.1. You warrant and represent to Programmed that neither you, nor any of your Vendor Personnel who will be involved in performing the Services or Goods has any current conflict of interest known as at the date of a Contract.</p> <p>73.2. You must inform us of any matter relating to a Contract which may give rise to an actual or potential conflict of interest at any time during the period of a Contract.</p> <p>73.3. You agree to adhere to the Programmed Code of Conduct which forms part of the Programmed Policies (including the provisions regarding conflict of interest).</p> <p>73.4. If you, your Vendor Personnel are in a situation where you become aware of a potential for conflict, you must avoid any conflict that could compromise your ability to perform your duties and deliver the Goods or Services impartially, and to attempt to resolve any conflict that may exist.</p> <p>73.5. You must report an actual or suspect conflict of interest, bribe (including a request for a bribe) or offer of impromptu inducement in any regard, in writing to the Programmed Representative or a Programmed officer as soon as possible.</p> <p>73.6. For the purposes of this clause, a ‘conflict of interest’ includes when the Vendor, Vendor Personnel or Vendor’s subcontractor:</p> <p>73.6.1. could be influenced or perceived to be influenced by a personal interest (e.g., a friend or family member) when performing the Services / their duties; and/or</p> <p>73.6.2. has an existing relationship with an employee, contractor or Affiliated Company of Programmed.</p>
74.Governing Law	<p>74.1. All Contracts are governed by the laws of the State of Victoria, Australia, unless the Goods or Services are provided exclusively in New Zealand in which case the Contract is governed by the laws of New Zealand.</p>
75.Survival	<p>75.1. Clauses 5, 12, 22, 24 to 32, 45 to 55, 59, 62 to 65, 70, 71, 73 and 74 and the warranties and indemnities given by the Vendor under a Contract survive termination or expiry of the Contract (and/or relevant SOW, Order or other Vendor Agreement).</p>

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In this Contract, unless the context requires otherwise:

Act Improperly means to act in a way that is not in good faith, not impartial, or a breach of trust.

Accounts has the meaning given to it in clause 30.

Affiliated Company means an affiliate company, a parent company, a subsidiary company and/or a Related Body Corporate of Programmed in Australia or New Zealand.

Annexure means an annexure to this Contract.

Anti-Corruption Laws means any anti-corruption Law that applies to Programmed, its Affiliated Companies, the Vendor, or this Contract (including but not limited to the *Criminal Code Act 1995 (Cth)*, *Foreign Corrupt Practices Act 1997 (US)* and the *Bribery Act 2010 (UK)*.

Audit has the meaning given to it in clause 31.

Background IP means Intellectual Property Rights existing at or before the Commencement Date.

Business Day means a day that is not a Saturday, Sunday or public holiday in the place which the Services or Goods are provided (and if provided in more than one place, then Melbourne, Victoria).

Building Service Equipment means items of plant and equipment in a building which is used to provide the Goods or Services at a Site.

Change in Law means a repeal of, a change to, the coming into effect, or implementation of a Law which happens after the Commencement Date.

Commencement Date means start date of this Contract specified in the Engagement Document.

Commercial Model has the meaning given to it in clause 3.1.

Confidential Information means in relation to each disclosing party and their Related Bodies Corporate (each a Discloser):

- a. all information relating to or used by the Discloser (and, in the case of Programmed, its Affiliated Companies) including know-how, trade secrets, ideas, marketing strategies and operational information;
- b. all information concerning the business affairs or property of the Discloser (including products, goods, services, customers, Vendors, or any business, property or transaction (whether current or historical) relating to the Discloser;
- c. any other information disclosed by or on behalf of the Discloser which could be expected to be regarded as confidential (including because of its nature or circumstances of disclosure);
- d. In the case of Programmed, all Programmed Data made available to the Vendor by Programmed or a third Party,

but excludes information which:

- i. is publicly available (other than because of a breach of this Contract or other confidentiality obligation);
- ii. is disclosed to the other party without restriction or breach of confidentiality by a third party;
- iii. is developed independently by the other party without reliance on the Discloser's Confidential Information.

Contract has the meaning given in clause 1 and includes any subsequent amendments to it as agreed in writing between the parties.

Copyright Works means any copyright work in the Documentation which the Vendor provides to Programmed as required by this Contract.

Customer means a customer or client of Programmed.

Customer Equipment means equipment that is owned or leased by a Customer.

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Customer Contract means a contract between Programmed and its Customer in relation to Customer work.

Customer Policies means a Customer's policies which you are required to comply with as referenced in an applicable SOW, Terms or Engagement, Customer Requirements or other annexure to a Contract.

Customer Requirements means prescribed terms in a Customer Contract that Programmed passes down to you so that it can engage you as a Vendor to provide Goods or Services to Programmed as part of Programmed's program of Customer work.

Defect means a defect, failure in performance and/or failure in functionality that:

- a. would prevent the Vendor from providing a Service in accordance with the KPIs and this Contract; and/or
- b. would prevent a Service from meeting its specifications or Performance Requirements.

Defect Liability Period means a period so identified in the Engagement Document or if not specified then the Defect Liability Period is 24 months. .

Delay means a delay (for any reason) to the performance or delivery of a Service, but excludes any exercise by Programmed of a Direction (or other right to suspend) permitted under the Contract.

Design Defect means a defect in (or relating to) a Service or other system or process resulting from a defect, error, omission or other lack of functionality in (or arising from) the design of that Service, system or process.

Direction means a written direction relating to the performance of Services or provision of Goods with which the Vendor must comply.

Direct has the corresponding meaning as a verb.

Disputed Amount has the meaning given in clause 41.

Document or **Documentation** includes any paper, article, technology, device or other material on or from which:

- a. there is writing;
- b. there are marks, figures, symbols, raised dots, or perforations that have meaning for persons qualified to interpret them; and
- c. text, sounds or images can be reproduced or viewed (including digitally, aided by another device, or on its own).

End Date means the date this Contract ends as specified in the Engagement Document (as may be extended under clause 6).

Engagement means an engagement to provide Goods or Services under an Engagement Document.

Engagement Document has the meaning given in clause 1.

Extension Period means the period(s) by which the End Date can be extended as specified in the Engagement Document and clause 6.

Force Majeure Event means an earthquake, natural disaster, fire, flood, riot, malicious damage, health pandemic, sabotage, act of public enemy, war, terrorism, revolution or radioactive contamination which:

- a. is beyond a party's reasonable control; and
- b. that party could not reasonably have provided against before the Commencement Date.

Goods means all goods, materials, equipment, parts and any other ancillary or related activity provided by the Vendor to Programmed in accordance with a Contract.

Good Industry Practice means the exercise of the degree of and standard of care, skill, diligence, prudence and foresight that would be expected of an expert and experienced provider of goods or services:

- a. to a customer similar to Programmed and its Affiliated Companies;

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- b. of services similar to the Services;
- c. of goods similar to the Goods; and
- d. for market based pricing, seeking to comply with its contractual obligations and all applicable Law.

Government Official means any:

- a. individual who is employed by or acting on behalf of any Relevant Authorities, government, government-controlled entity or public international organisation;
- b. political party, party official or candidate;
- c. individual who holds or performs the duties of an appointment, office or position created by custom or convention; or
- d. individual who holds or performs the duties of an appointment, office or position created by custom or convention; or
- e. individual who holds himself out to be the authorised intermediary of any person specified in paragraphs (a),(b) or (c) above.

Group Terms of Supply means Programmed's Group Terms of Supply (which are separate to these General Terms and which do not apply if there is an MVA between the parties), which are available on the Contractor Essentials Page at www.programmed.com.au or on request (which we can update from time to time at our discretion).

Hazardous Materials means all hazardous substances and harmful materials (including but by no means limited to (i) all material, pollutants and contaminants defined as such according to Law (ii) asbestos and other disease or illness causing materials).

Information Point has the meaning given to it in clause in the background on the first page of these General Terms.

IT System means any information management system or combination of systems nominated in writing by Programmed and/or a Customer (as applicable) from time to time, which the Vendor is required to interact with in accordance with a Contract.

Insolvency Event means an event where:

- a. the party is unable to pay its debts as and when they become due and payable;
- b. the party is (or a court decides, a resolution is passed, or notice is given, that a party be) dissolved, deregistered or wound up;
- c. the party fails to comply with a statutory demand to pay a debt;
- d. the party ceases to carry on all or a material part of its business;
- e. the party appoints (or takes active steps to appoint) a controller, receiver, manager, trustee in bankruptcy, provisional liquidator, administrator or like person of the whole or part of that party's assets, operations or business; or
- f. the party is (or states that it is) insolvent or under insolvency administration.

Intellectual Property Rights means all rights in or to any:

- a. patent, copyright, database right, registered design or other design right, utility model, trademark (either registered or unregistered) and related rights in trade dress, brand name, service mark, trade name, eligible layout right, chip topography right; or
- b. other rights of a proprietary nature (or results of intellectual activity in) the industrial, commercial, scientific, literary or artistic fields (whether registerable or not) wherever they exist in the world; and
- c. renewals, extensions and revivals of, and all rights to apply for, any of the rights described in paragraphs (a) or (b).

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Key Personnel means those employees, officers or agents of the Vendor nominated as such in the Engagement Document (as applicable).

KPIs mean the key performance indicators and other performance standards that the Vendor must achieve under the Contract, as set out in a Statement of Work, Vendor Agreement or Order (as applicable).

Law means any rules of common law, principles of equity, national, federal, state and local laws, statutes, legislation, rules, listing rules of an exchange on which a party's securities are listed, regulations, orders, proclamations, ordinances, by-laws or codes of Relevant Authorities applicable to the Goods or Services under this Contract (including without limitation any law relating to occupational health and safety, protection of the environment, payment of any tax, any worker's compensation laws, industrial relations, Privacy Laws, modern slavery and anti-corruption laws and/or security of critical infrastructure laws).

Liquidated Damages means the amount the Vendor must pay to Programmed if the Vendor does not deliver a milestone by its agreed date. Liquidated Damages may be specified in a SOW, Vendor Agreement or other relevant schedule.

Losses means all losses, liabilities, damages and all related costs and expenses (including reasonable legal fees, disbursements, costs of investigation, litigation, settlement, judgement, interest and penalties) and Loss has the corresponding meaning.

Modern Slavery has the meaning given to it in clause 26.

Moral Rights means any of the rights described in Article 6bis of the Berne Convention for the Protection of Literary and Artistic Works 1886 (as amended and revised from time to time), being "droit moral" or other analogous rights arising under any statute (including the *Copyright Act 1968* (Cth) or any other law (including any law outside Australia), that exists, or that may come to exist, anywhere in the world.

Notifiable Data Breach is a breach required to be notified to the Office of the Australian Information Commissioner under Privacy Law because it is likely to result in serious harm to an individual whose Personal Information is involved.

Order means a written order form that Programmed issues to the Vendor to obtain Goods or Services in accordance with clause 9 (which may, but does not have to be, titled a 'work order' or 'purchase order') and that forms a separate and binding agreement for the provision of the relevant Services. Orders also include the Group Terms of Supply (which are annexed to each Order) unless a MVA is in place – in which case the Group Terms of Supply will not apply.

Ordered Services means Goods or Services specified in an Order which may be ordered in accordance with clause 9 and which may be used where Programmed does not require the Vendor to provide Goods or Services to it under an Engagement Document.

Performance Requirements means the performance requirements for a Service set out in the relevant SOW, Vendor Agreement or Order (as applicable).

Personal Information has the meaning given to that term in the *Privacy Act 1988* (Cth) or the *Privacy Act 1993* (NZ) as the context requires.

Privacy Laws mean:

- a. the Privacy Act 1988 (Cth) or the Privacy Act 1993 (NZ) (as the context requires) and any other legislation, regulations, legally binding orders, directions or principles made under such legislation or similar legislation, relating to the collection, use, disclosure, processing, storage and/or granting of access rights to Personal Information in Australia and New Zealand; and
- b. such principles, industry codes and policies relating to the collection, use, disclosure, processing, storage or granting of access rights to Personal Information by which Programmed or any Affiliated Company is

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bound (as specified in an Engagement Document and/or as notified in writing by Programmed from time to time).

Programmed means the Programmed entity set out in the Contract Details.

Programmed Data means data of any kind belonging to Programmed, its Customers or other Vendors, including (a) data which the Vendor accesses, stores or handles in relation to this Contract; and (b) any data which is Personal Information, Confidential Information, Records, Accounts, corporate proprietary or financial information, data relating to a Customer, sensitive data, or any other information deemed to be personal, confidential or private under the Privacy Act 1998 (Cth), Privacy Act 2003 (NZ) and/or the European Union *General Data Protection Regulation 2016/679* and its amending acts (EU GDPR) and the United Kingdom's *Data Protection Act 2018* (UK GDPR).

Programmed Equipment means equipment owned or leased by Programmed located on the Site and used by the Vendor in performing the Services or providing Goods (and which may be specified in this Contract). The Vendor acknowledges that Programmed Equipment may include Customer Equipment.

Programmed Policies means all Programmed policies, procedures, statements, handbooks, resources (or similar) available on:

- the 'Contractor Essentials Page' at <https://programmed.com.au/contractor-essentials/> (including (but not limited to) the Subcontractor Handbook available at <https://programmed.com.au/contractor-essentials/resources/>); and
- on our general policy page at <https://programmed.com.au/policies/> including the code of Conduct,

or other Programmed or Customer policy or procedure annexed to the MVA, a SOW, Order or Vendor Agreement.

Project means a project of work and includes a Customer project (as applicable).

Project IP means all Intellectual Property Rights (present or future) created, discovered or coming into existence as a result of, for the purpose of, or in connection with the performance of a Contract (including all Intellectual Property Rights developed by Programmed, the Vendor or the Customer in relation to a Contract or Services and any Intellectual Property Rights in Programmed's Technical Materials).

Programmed's Technical Material means templates, precedents, models, software (including source code, API's, plug-ins, integrations and object code versions), information, design concepts, video drawings (including "as built" drawings), programs, schedules, manuals, diagrams, graphs, charts, projections, specifications, estimates, records, concepts, accounts, plans, formulae, calculations, designs (including structural, mechanical, electrical and instrumentation designs) in any medium (including 2 dimensional and 3 dimensional computer assisted designed), methods, techniques and processes, including all copies of and extracts from them and related data stored by any means.

Proportionate Liability Legislation means Part 4 of the *Civil Liability Act 2002* (NSW), Part IVAA of the *Wrongs Act 1958* (Vic), Part 3 of the *Law Reform (Contributory Negligence and Apportionment of Liability) Act 2001* (SA), Part 2 of Chapter 2 of the *Civil Liability Act 2003* (Qld), Part 1F of the *Civil Liability Act 2002* (WA), Part 9A of the *Civil Liability Act 2002* (Tas), Chapter 7A of the *Civil Law (Wrongs) Act 2002* (ACT), Part 2 of the *Proportionate Liability Act 2005* (NT), Part IVA of the *Competition and Consumer Act 2010* (Cth), or Division 2A of Part 7.10 of the *Corporations Act 2001* (Cth) as applicable.

Quality Standards means the standards specified (as applicable).

Records has the meaning given to it in clause 30.

Related Body Corporate has the meaning:

- a. if registered in Australia, that is given to it in section 50 of the *Corporations Act 2001* (Cth); or

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b. if registered in New Zealand, that is given to 'Related Company' in section 2 of the *Companies Act 1993* (NZ).

Relevant Authorities means all Commonwealth, State, federal, national, regional, local (and in relation to applicable Laws only, international) government departments, courts, tribunals, judicial bodies, instrumentalities and other public authorities in Australia or New Zealand (as the context requires) or internationally which have powers (and the ability to exercise same) that affect the provision of the Goods or Services.

Representative means a representative of a party appointed under clause 11. As at the Commencement Date, the Representatives are the persons identified as such in the Contract Details.

Schedule means a schedule to this MVA.

Schedule of Rates means a schedule of rates detailed in a SOW, Vendor Agreement or Oder (as varied from time to time in accordance with this Contract).

Security of Payment Act means the following legislation as it applies to the relevant Services:

- a. *Building and Construction Industry (Security of Payment) Act 2009 (ACT)*;
- b. *Building and Construction Industry (Security of Payment) Act 1999 (NSW)*;
- c. *Construction Contracts (Security of Payments) Act 2004 (NT)*;
- d. *Building Industry Fairness (Security of Payment) Act 2017 (Qld)*;
- e. *Building and Construction Industry Security of Payment Act 2009 (SA)*;
- f. *Building and Construction Industry Security of Payment Act 2009 (Tas)*;
- g. *Building and Construction Industry Security of Payment Act 2002 (Vic)*;
- h. *Building and Construction Industry (Security of Payment) Act 2021 (WA)*; and
- i. *the Construction Contracts Act 2002 (NZ)*.

Services means any services to be provided by the Vendor under this Contract including any Services described in a Statement of Work, Order or any Vendor Agreement, and includes the provision of any incidental services or functions required for the proper performance and provision of the Services. The Services also includes the provision of any Goods or any item, thing Documentation (including designs, plans, advice or reports) or other output of the Services

Service Charges means the fees and charges payable by Programmed to the Vendor for Services (including Goods, if relevant) calculated in accordance with the Schedule of Rates (where applicable) and as otherwise provided for in an Engagement Document.

Service Specific Terms are terms agreed by the parties in writing in an Engagement Document that relate to the specific nature of the Services being provided under that Engagement Document.

Sites means the sites identified in an Engagement Document or notified to you. A site can be owned or controlled by either Programmed or a Customer.

Site Specific Work Method Statement means a list of health and safety risks relating to the performance of the Services, and details of how to measure and control these risks.

Statement of Work or **SOW** means a written statement of work signed by the parties which forms a separate binding agreement for the provision of Services (including any Goods if relevant).

Subcontractor means a third party engaged by the Vendor to assist in the provision of Goods or Services under this Contract.

Subcontracted Services has the meaning given to it in clause 10 and includes any Services (including any Goods, if relevant) specified in any Vendor Agreement.

Taxes has the meaning given to it in clause 34.

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Term has the meaning given to it in clause 5.

Vendor means the Vendor listed in the MVA.

Vendor Agreement means a written agreement signed by the parties which forms a separate binding agreement for the provision of Goods or Services.

Vendor Equipment means equipment owned or leased by the Vendor, its employees or subcontractor and used at the Site by the Vendor, its employees or subcontractor during the Term.

Vendor Personnel has the meaning given to it in clause 17.

Variation means a variation to the Goods or Services as set out in clause 13.

Variation Notice means a notice issued in accordance with clause 13.

Vulnerable Persons means people aged under 18 or other individuals who may be unable to take care of themselves or are unable to protect themselves against harm or exploitation.

HOW TO INTERPRET A CONTRACT

- Information Points in subheadings are to help you interpret and explain the contract. They are not terms of the Contract (i.e. do not form part of the agreement between us).
- Headings do not form part of the Contract (please ignore them when interpreting a Contract).
- The singular includes the plural (and vice versa) and a gender includes all other genders.
- References to legislation include amendments to, and re-enactments of, that legislation.
- References to a party include that party's successors and permitted assignees or transferees.
- References to parts, clauses, schedules or annexures are references to parts, clauses, annexures and schedules of a Contract.
- References to "\$" or "dollars" are references to Australian currency (unless specified and agreed otherwise).
- A reference to any of the words "include," "includes" and "including" are to be read as if followed by the words "without limitation."
- A reference to a person includes any individual, firm, body corporate, partnership, joint venture, an unincorporated body, association, government agency and any executor, administrator, substitute, successor or permitted assign of that person.
- A reference to a Relevant Authority, professional institute, association, agency or body includes any succeeding Relevant Authority, professional institute, association, agency or body having similar objectives.
- No rule of construction will apply to the interpretation of a Contract to the disadvantage of one party on the basis that the relevant party put forward or drafted this Contract or any provision of this Contract.
- Except to the extent that such consent, permission or approval is specified to be at the discretion of Programmed, any provision of a Contract relating to the giving of a consent, approval or permission by a party to a Contract is to be read as if followed by the words "which will not be unreasonably withheld."
- If you provide a legal entity name or ABN that is not technically correct, we can (acting reasonably following consultation with you) infer the legal entity that was intended.