

Unless there is another written agreement in place between the parties, these terms and conditions (**Terms**) apply to the supply of goods and services to I-MED by its suppliers as set out in this document.

1. Formation of an Agreement

1.1 If:

- (a) the Supplier gives I-MED a quote, draft order or similar document proposing commercial terms and specifications for the supply of one or more goods or services to I-MED (**Proposal**), that document will become an **Order**, and will incorporate these Terms to form an Agreement, when it is accepted by I-MED in writing or orally;
- (b) I-MED gives the Supplier a Proposal, that Proposal will become an **Order**, and will incorporate these Terms to form an Agreement, on the earlier of:
 - (i) receipt by I-MED of the Supplier's oral or written acceptance of the Proposal; and
 - (ii) the first date on which the Supplier supplies the Services or Deliverables the subject of the Proposal; or
- (c) I-MED places an order for one or more goods orally (including over the phone), the goods and services described during that order (together with any specifications referenced during that discussion) will become an **Order** and will incorporate these Terms to form an Agreement at the time of that I-MED places the Order,

unless the parties agree separate terms should apply to that engagement.

1.2 The entire agreement between I-MED and the Supplier for the purchase of the Services and Deliverables the subject of an Order is constituted by:

- (a) these Terms;
- (b) the terms and conditions (including Specifications) in the Order; and
- (c) any other terms and conditions which are imposed by Law and which cannot be excluded,

(**Agreement**). For clarity, any of the Supplier's terms and conditions that are supplied with the

Services or Deliverables (including as printed on consignment notes or other documents or as part of any 'click-through' acknowledgment) do not form part of the Agreement and have no effect between the parties.

1.3 Subject to clause 1.4, if there is inconsistency between the documents comprising the Agreement, the document listed higher in clause 1.2 will take priority to the extent of the inconsistency.

1.4 The parties may, by express written agreement (including in an Order), vary or exclude the operation of one or more terms of these Terms.

2. Supply

2.1 The Agreement commences on the date specified for supply of the Services and Deliverables in the Order (or, if earlier, the date of the Order) and ends when the Supplier is no longer obliged to supply Services or Deliverables (unless it is terminated earlier in accordance with its terms).

2.2 The Supplier must provide the Services and deliver the Deliverables to I-MED:

- (a) in compliance with:
 - (i) applicable Laws;
 - (ii) any specifications set out in the Order (including any delivery requirements or milestones and location requirements) (**Specifications**);
 - (iii) I-MED's policies notified by I-MED to the Supplier in writing, including prior to the date of the Order; and
 - (iv) I-MED's reasonable directions (including in relation to work health and safety, data security and privacy); and
- (b) so that receipt of the Services and the use of the Deliverables will not cause I-MED or its Personnel to breach applicable Laws or any rights of any third party.

2.3 The Supplier must ensure that the Services are provided in a professional and diligent manner and with all due care and skill required of a person providing similar services.

2.4 The Supplier must co-operate with I-MED's other contractors and consultants providing goods or services related to the Services and Deliverables. The Supplier must not do anything that may void



any warranties given by other contractors or consultants.

3. Delay

- 3.1 The Supplier must use its reasonable endeavours to anticipate and prevent any potential delays in the supply of the Services and Deliverables.
- 3.2 If the Supplier becomes aware of a potential or actual delay, the Supplier must:
- (a) immediately notify I-MED of that actual or potential delay; and
 - (b) take, and ensure that any affected subcontractor takes, all reasonable steps to comply with the applicable due date.
- 3.3 If I-MED fails to perform an obligation, and that failure may cause the Supplier to fail to perform one or more obligations by the applicable then current due date, the Supplier must promptly notify I-MED specifying the failure and the date that the failure must be rectified by to avoid a delay.
- 3.4 If there is a delay by the Supplier and that delay is caused by:
- (a) the failure of I-MED to perform or provide a task, responsibility or input under the Agreement by the due date; or
 - (b) a force majeure event,
- (each an **Extension Event**), then, provided that the Supplier has complied with its obligations under clauses 3.3 and 11, the Supplier will receive an extension of time equal to the duration of the delay caused by the Extension Event in respect of each of its obligations which is affected by the Extension Event.
- 3.5 In addition to any other right under the Agreement, I-MED may extend any due date at any time by giving the Supplier a notice specifying the extension.
- 3.6 If the Supplier is granted an extension under this clause 3, the extension:
- (a) does not affect any other due dates unless otherwise agreed in writing between the parties; and
 - (b) is the Supplier's sole remedy relating to that delay and any related Extension Event.
- 3.7 The grounds specified in this clause 3 are the sole grounds on which the Supplier may be granted an extension of time or seek a recovery of any amounts relating to a delay caused by I-MED or any of its Personnel.

3.8 Subject to clauses 3.3 and 3.4, if the Supplier fails to perform an obligation by the applicable due date, I-MED may do one or more of the following:

- (a) require the Supplier to negotiate a change request for any Services and Deliverables affected by the delay;
- (b) if any liquidated damages are specified in the Order relating to that delay, recover those liquidated damages; and
- (c) give the Supplier a termination notice for this Agreement in its entirety or to the extent that it relates to the Services and Deliverables affected by the delay and any related services and deliverables.

4. Acceptance and Defect Rectification

- 4.1 If the Order specifies acceptance activities to be performed by one or both parties in relation to a Deliverable (**Acceptance Activities**), then the parties must each perform their respective Acceptance Activities in accordance with any milestones specified in the Order.
- 4.2 I-MED may test a Deliverable within a reasonable time after it is supplied (or within such other timeframe as is specified in the Order), to confirm that it meets the Specifications. If the testing demonstrates that the Deliverable:
- (a) complies with the Specifications, I-MED will notify the Supplier of its acceptance of the Deliverable; or
 - (b) does not comply with the Specifications, I-MED must, within the timeframe set out in the Order, notify the Supplier of that fact and give the Supplier a reasonable opportunity to rectify or replace the Deliverable (at the Supplier's expense) so that it does so comply, and I-MED may carry out the review and testing in accordance with this clause once the Deliverable is so rectified or replaced.
- 4.3 If I-MED does not give the Supplier a notice accepting or rejecting a Deliverable within the timeframe specified in clause 4.2(b), the Supplier may give I-MED a notice specifying that fact.
- 4.4 If I-MED has not given a notice accepting or rejecting the Deliverable within 10 Business Days after receiving the reminder under clause 4.3, the Supplier may give I-MED a 'deemed acceptance' notice for that Deliverable which Acceptance will be effective on the date that notice is received by I-MED.
- 4.5 Subject to clause 5, title to and risk in the Deliverables transfers to I-MED on Acceptance.



4.6 If at any time during the 'warranty period' specified in the Order (or if no such period is set out, during the 90 day period commencing on the date on which the Deliverable is Accepted), the Supplier becomes or is made aware of any failure of the applicable Deliverable to operate in accordance with or comply with the Specifications, clause 11 or with any applicable Laws (**Defect**), the Supplier must:

- (a) at its cost, correct the Defect including by repairing or replacing that Deliverable within the timeframe specified in the Order, or if there is no such timeframe, within five Business Days; and
- (b) provide all assistance reasonably requested by I-MED in testing or re-testing the Deliverable and clause 4.1 and 4.2 will apply.

5. Intellectual Property

5.1 Created Materials

- (a) Except as expressly set out in an Order, I-MED will exclusively own all results and proceeds of the Services, including all material created or acquired by the Supplier in the course of, or for the purpose of, providing the Services (together, with the Deliverables, the **Created Materials**).
- (b) The Supplier irrevocably and unconditionally assigns (and must procure that all relevant third parties and Personnel irrevocably and unconditionally assign) to I-MED, as a present assignment of existing and future rights, all Intellectual Property Rights comprised in the Created Materials. The Supplier must do all other acts, matters and things that may be necessary to vest those rights in I-MED.
- (c) The Supplier waives, and will ensure any of its Personnel waive, any moral rights in respect of the Created Materials and consents to any and all acts or omissions by I-MED in relation to the Created Materials which would otherwise infringe any of their moral rights in the Created Materials.

5.2 I-MED Materials

- (a) Nothing in the Agreement grants to the Supplier any Intellectual Property Rights in any materials provided by I-MED in connection with the Agreement or in the Created Materials.
- (b) I-MED grants the Supplier a limited, revocable, non-exclusive, royalty free licence, for the duration of the Agreement, to

use its intellectual property (including in the Created Materials) solely to the extent required to provide the Services.

5.3 Third Party Materials

- (a) If the Supplier uses any third party materials (including software which is the subject of an open source licence) in the course of providing the Services (**Third Party Materials**), the Supplier will:
 - (i) identify such Third Party Materials in the relevant Order;
 - (ii) ensure that it obtains, at its own cost, any licences required for the use of that Third Party Material. Each such licence must be capable of being assigned to I-MED (at no cost to I-MED) and used by I-MED independent of the Supplier following completion of the Services;
 - (iii) comply with the terms of use applicable to the Third Party Material; and
 - (iv) validly transfer the benefit of that licence to I-MED with effect from I-MED's Acceptance of the Deliverable to which the Third Party Material relates, unless I-MED notifies the Supplier that a transfer of the Third Party Material is not required.
- (b) For the avoidance of doubt, the Supplier must not use any Third Party Materials which are not identified in the relevant Order.

6. Personnel

- 6.1 The Supplier must pay all costs incidental to the Supplier's employment or engagement of employees, agents and sub-contractors engaged in connection with each Agreement (**Personnel**), including:
- (a) all payments due to or in relation to Personnel as a consequence of their employment, or engagement, or their termination, including all wages, salaries, bonuses, penalties, loadings and allowances; and costs of all fringe benefits; and
 - (b) all indirect costs of or relating to the employment or engagement of its Personnel including providing or paying any superannuation entitlement, contribution, payment or charge; all payments in relation to any taxes or any other payments imposed on an employer in respect of employees under applicable Laws; workers' compensation insurance premiums; leave



accruals; and any other payment required by Law, industrial award or agreement.

- 6.2 Without limiting the Supplier's obligations under the Agreement or at Law, if requested by I-MED, the Supplier will provide to I-MED of a copy of a signed sub-contractor's statement for each sub-contractor in the form set out at www.workcover.nsw.gov.au from time to time.

7. Fees

- 7.1 I-MED will pay to the Supplier the fees set out in the Order (**Fees**) within 45 days of the end of the month in which I-MED receives an invoice which complies with clause 7.2.

- 7.2 Each invoice issued to I-MED must be a valid tax invoice issued in accordance with the payment milestones specified in the Order and must specify:

- (a) a reference to the I-MED Order Number;
- (b) a detailed description of the delivered Deliverables and performed Services;
- (c) the Fees, broken down to reflect the same fee components on the Order; and
- (d) the amount of any applicable GST.

- 7.3 The parties agree that all amounts payable under the Agreement are exclusive of GST. If the whole or any part of the amounts payable under the Agreement is the consideration for a taxable supply within the meaning of the Australian taxation laws, the GST amount in respect of the payment must be paid as an additional amount either concurrently with that payment or as otherwise agreed in writing.

8. Insurance

- 8.1 The Supplier must take out and maintain (and ensure any of its sub-contractors take out and maintain) with reputable insurers in respect of the term of the Agreement (and, for the insurance described in clause 8.1(b), for 6 years after the expiry or termination of the Agreement):

- (a) a valid and enforceable public and product liability insurance policy of at least \$20,000,000 on a 'per claim' basis;
- (b) a valid and enforceable professional indemnity insurance policy up to at least \$5,000,000;
- (c) insurance to cover the Deliverables until they are Accepted (for their full replacement value);

- (d) all necessary statutory workers compensation insurance (and otherwise comply with all statutory workers compensation requirements); and
- (e) any additional insurance notified to the Supplier in writing prior to the date of the Order.

- 8.2 The Supplier must provide to I-MED, on request, evidence of the insurance cover obtained by the Supplier in accordance with clause 8.1 and must notify I-MED immediately in writing of any cancellation or non-renewal of the policies.

9. Confidentiality

- 9.1 The parties acknowledge that subject to clause 9.2, the terms of the Agreement and all related information and correspondence, as well as any information supplied by I-MED under the Agreement (whether before or after the commencement of that Agreement) which is identified as confidential or is, by its nature, confidential, including any Personal Information (**Confidential Information**) are confidential. Each party agrees to take measures that are prudent and necessary to preserve such confidentiality and may only disclose the Confidential Information of the other party:

- (a) to their Personnel on a need to know basis and subject to an obligation of confidence;
- (b) to their respective legal and professional advisers;
- (c) as required by applicable Laws or a recognised stock exchange; or
- (d) with the prior written consent of the other party (and subject to complying with any conditions attached to that consent).

- 9.2 Confidential Information does not include any information:

- (a) in the public domain otherwise than as a result of a breach of an obligation of confidence;
- (b) created by the receiving party (whether alone or jointly with any person) independently of the disclosing party's Confidential Information; or
- (c) already known by the receiving party independently of its involvement in the Agreement or its interaction with the disclosing party and free of any obligation of confidence.



10. Privacy

10.1 If the Supplier collects, holds, stores or processes Personal Information as part of its obligations under the Agreement, the Supplier must comply with Schedule 1.

10.2 By entering into the Agreement, the Supplier consents to I-MED using its Personal Information to perform I-MED's obligations under the Agreement. I-MED may use that Personal Information in accordance with its Privacy Policy available at <https://www.i-med.com.au/about-us-radiology-medical-imaging/your-privacy> from time to time.

11. Warranties

11.1 The Supplier represents and warrants to I-MED that:

- (a) in providing the Services and Deliverables to I-MED, the Supplier will not and in using the Services and Deliverables, I-Med will not, be in breach of any duty of confidence, infringe the Intellectual Property Rights or other rights of any third party, or breach the terms of any agreement or any applicable laws;
- (b) following the transfer of title in the Deliverables and the Created Materials to I-MED in accordance with the Agreement, I-MED will be the absolute legal and beneficial owner of them free from all encumbrances;
- (c) the Deliverables:
 - (i) are new, unless otherwise agreed between the parties;
 - (ii) are fit for the purpose for which purchased (as communicated by I-MED before or in the Order or as should be reasonably understood by the Supplier); and
 - (iii) include any applicable warranties from any third party manufacturer.

12. Indemnity

The Supplier indemnifies I-MED and its directors, officers, employees and agents (each an **Indemnified Party**) from and against all claims, losses, damages, costs and liabilities of any kind which are incurred or suffered by an Indemnified Party in connection with:

- (a) any third party claim against an Indemnified Party arising out of or in connection with a breach of any term of the Agreement by the Supplier;

(b) a breach of any of clauses 2.2(a)(i), 2.2(b), 5.3, 9 or 10; or

(c) any claim, entitlement or demand by any of the Supplier's Personnel.

13. Force Majeure

13.1 If a party is unable to, or experiences a delay before it can, fulfil its obligations under the Agreement as a result of a force majeure event, that party will be relieved from such failure to perform for so long as the force majeure event continues provided that the affected party has taken reasonable steps to mitigate the effects of the force majeure event (including by implementing its business continuity plans).

13.2 If a force majeure event prevents a party from fulfilling its obligations for more than 10 Business Days, the parties will meet to discuss alternative solutions which may include termination of the affected Agreement at the non-defaulting party's option.

14. Termination

14.1 Either party may terminate the Agreement, with immediate effect, on notice, if the other is in material breach of its obligations under the Agreement and such breach is either not remediable or is not remedied within 10 Business Days of receipt of written notice.

14.2 I-MED may terminate the Agreement if the Supplier is insolvent (including where it is unable to pay its debts) or experiences a change of control without I-MED's prior written consent.

14.3 I-MED may, at any time upon reasonable notice to the Supplier, terminate the Agreement, in whole or in part, with immediate effect and without cause. Following receipt of such notice, the Supplier and its Personnel must, to the extent specified by I-MED, cease providing the Services and the Deliverables and I-MED will be liable to pay the Supplier for any Services or Deliverables provided up to the date of termination (in accordance with clause 7).

14.4 Upon termination or expiry of the Agreement, the Supplier must return to I-MED all Confidential Information of I-MED.

14.5 Termination or expiry of the Agreement will be without prejudice to any existing rights or claims that either party may have and clauses 5 - 7, 9, 10, 11, 12, 14 and 17 survive termination or expiry of that Agreement.



15. Dispute resolution

15.1 Without affecting the rights of I-MED or of the Supplier at Law, the parties agree not to commence court proceedings in relation to any dispute in connection with the Agreement (except proceedings seeking interlocutory relief) until they have first attempted to resolve the dispute by discussion between a senior representative nominated by I-MED and a senior representative nominated by the Supplier.

15.2 If the parties fail to resolve the dispute in accordance with clause 15.1 within 30 days, the parties will refer the dispute for mediation by an independent mediator. The mediator and the process for mediation must be agreed between the parties.

16. Notices

16.1 Any notice, demand, approval, consent or other communication under the Agreement (**Notice**) must be in writing in English or accompanied by a certified translation into English and must be:

- (a) delivered personally;
- (b) sent by email; or
- (c) sent by regular post (or airmail if posted to or from a place outside Australia),

to a party using the contact details specified in the Order or such other contact details as the party may from time to time notify to the other party for the purposes of this clause.

16.2 A Notice given in accordance with clause 16.1 takes effect when received (or such later time as specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent from and to a place within Australia by regular post, at 9:00 am on the sixth Business Day after the date of posting;
- (c) if sent from a place within Australia to a place outside Australia by airmail or from a place outside Australia by airmail, at 9.00 am on the tenth Business Day after the date of posting; or
- (d) if sent by email at the time the sender's information system (as that term is defined in the *Electronic Transactions Act 2000* (NSW)) recorded that email left the sender's information system unless, within eight Business Hours after that time, the sender is informed (by automatic notice or otherwise) that the email has not been received by the recipient,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00 pm on a Business Day, the Notice is taken to be received at 9.00 am on the next Business Day after that delivery, receipt or transmission.

17. General

17.1 The Supplier provides the Services to I-MED as an independent contractor and has no authority to act for or bind I-MED in any manner whatsoever.

17.2 The Supplier must obtain I-MED's written consent before it:

- (a) subcontracts any obligation under the Agreement;
- (b) assigns, charges or encumbers the Agreement or any rights under the Agreement; or
- (c) advertises or publishes anything concerning the Agreement.

17.3 Unless otherwise specified:

- (a) any references to:
 - (i) time are to the time;
 - (ii) Business Days are to Monday to Friday excluding gazetted public holidays, in the place specified as I-MED's location in the Order; and
- (b) words such as including are not to be interpreted as words of limitation;
- (c) the singular includes plural and vice versa;
- (d) a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (e) if a party consists of more than one person, the Agreement binds each of them separately and any two or more of them jointly;
- (f) an obligation, representation or warranty in favour of more than one person is for the benefit of them separately and jointly; and
- (g) time is of the essence in respect of all of the Supplier's obligations to I-MED.

17.4 Each Agreement and any dispute arising out of or in relation to that Agreement is governed by the laws of New South Wales. The parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and courts of appeal from them.



18. Definitions

In the Agreement:

Accepted	means, for a Deliverable, that it has been accepted as complying with the Specifications in accordance with clause 4.2(a) or 4.4.
Agreement	has the meaning given in clause 1.2.
Business Days	has the meaning given in clause 17.3(a)(ii).
Confidential Information	has the meaning given in clause 9.1 (subject to clause 9.2).
Created Materials	has the meaning given in clause 5.1.
Deliverable	means: <ul style="list-style-type: none">(a) all items supplied, or made accessible, by or on behalf of the Supplier in the course of supplying the Services, including:<ul style="list-style-type: none">(i) any Goods; and(ii) where the Services include the supply of, or access to, SaaS Software, that SaaS Software; and(b) any other item supplied, or made accessible, by or on behalf of, or to be supplied, or made accessible, by or on behalf of, the Supplier under the Agreement, but excludes Services themselves.
Goods	means the goods specified in the Order.
GST	has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth).
I-MED	means I-MED Radiology Network Limited (ABN 21 093 625 346) and its related bodies corporate (as that term is defined in the <i>Corporations Act 2001</i> (Cth)).
Intellectual Property Rights	means all intellectual property rights and related rights, anywhere in the world, registered or unregistered, and any application or right to apply for registration of any of those rights.

Law	means any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in any relevant jurisdiction and includes any codes of conduct.
Personal Information	has the meaning given to it in the Privacy Act and includes sensitive information (as that term is defined in the Privacy Act).
Personnel	has the meaning given in clause 6.1.
Order	has the meaning given in clause 1.1.
Privacy Act	means the <i>Privacy Act 1988</i> (Cth).
Services	means the services described in the Order and any other services, tasks, activities and functions that are not specified as I-MED's responsibility in the Order but which are otherwise required to successfully provide them.
Specifications	has the meaning given in clause 2.2(a)(ii).
Supplier	means the party named as the supplier in the Order.
Terms	means the terms and conditions set out in this document, including Schedule 1.



Schedule 1 Privacy Obligations

1. Compliance obligations

- 1.1 The Supplier must, and must ensure its Personnel:
- (a) only access Personal Information for the sole purpose, and to the extent required, to perform the Services and supply the Deliverables;
 - (b) comply with the Privacy Act and any other applicable privacy and data laws (collectively, **Privacy Law**), even if it would not otherwise be required to comply with the Privacy Act;
 - (c) put in place appropriate technical and organisational measures in order to ensure the protection of Personal Information in accordance with the Privacy Law;
 - (d) do not act or engage in any practice that would breach any Privacy Law, or which if done or engaged in by I-MED, would be in breach of Privacy Law; and
 - (e) do not otherwise use, copy, store or transfer any part of any Personal Information, including but not limited to transferring any part of the Personal Information outside Australia.

For clarity, any dealing with Personal Information which is not permitted by this section requires the express written consent of I-MED, even if it is required to perform the Services or supply Deliverables.

2. Privacy Incidents

- 2.1 If any actual, apparent or anticipated:
- (a) loss, misuse or unauthorised access to or disclosure of Personal Information;
 - (b) breach of clause 9;
 - (c) request, complaint or enquiry made by a government agency or a data subject (as that term is defined in the Privacy Act) relating to the handling of Personal Information by a party or its Personnel; or
 - (d) 'eligible data breach' (as that term is defined in the Privacy Act),

(**Privacy Incident**) has occurred, or the Supplier has reasonable grounds to suspect that a Privacy Incident has occurred, the Supplier must:

- (e) give I-MED a notice specifying the nature of the Privacy Incident immediately after becoming aware of the Privacy Incident;
- (f) do all things necessary to address, or deal with, the Privacy Incident as and when required by I-MED, including to investigate the cause and extent of the Privacy Incident, and assess the risks arising from the Privacy Incident;
- (g) subject to section 2.2, not take any action, and ensure that none of its Personnel takes any action, that they may be required (or permitted) to take under Privacy Law (including any action to comply with its obligations in Part IIIC of the Privacy Act (**NDB Scheme Obligations**)) until the Supplier has consulted with I-MED regarding the Privacy Incident and the proposed action; and
- (h) promptly provide all information and other assistance requested by I-MED relating to the Privacy Incident (including to assist I-MED in discharging its NDB Scheme Obligations).

- 2.2 Section 2.1(g) does not apply to the extent that compliance with that clause would cause the Supplier or any of its Personnel to contravene a Privacy Law.