

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these terms and conditions:

- (a) **Agreement** means any written or oral agreement between Redflex and the Supplier which will also consist of these terms and conditions, any Purchase Order and any applicable Specifications;
- (b) **Claim** includes any request, demand or entitlement in relation to, arising out of or in connection with these terms and conditions or the Agreement for any purchase or service;
- (c) **Delivery Date** means:
 - (i) in relation to Products, the date for delivery of the Products; and
 - (ii) in relation to Services, the date for completion of the Services,

stated in the Purchase Order or in the Agreement;
- (d) **GST/VAT** means the goods and services tax in Australia or any other value added tax in any other jurisdiction that applies to the Supply in these terms and conditions or the Agreement;
- (e) **Insolvency Event** means, in relation to the Supplier, an application or order is made to or by a court or a resolution is passed for the winding up of the Supplier or notice of intention to propose such a resolution is given; or a controller (as defined in section 9 of the *Corporations Act 2001* (Cth) or under any applicable law) or an administrator under Part 5.3A of the *Corporations Act 2001* (Cth) or any other applicable law is appointed in respect of the Supplier, or the whole or any part of its undertaking or property;
- (f) **Loss** includes any losses, damages, liabilities and costs (including legal expenses);
- (g) **Purchase Order** means the purchase order issued in writing by Redflex to the Supplier, including purchase orders issued electronically to the Supplier;
- (h) **Products** means the item(s) to be supplied by the Supplier set out in the Purchase Order (if any) or the Agreement;
- (i) **Services** means the services to be provided by the Supplier to Redflex set out in the Purchase Order (if any) or the Agreement and includes any related services, functions or responsibilities not specifically described in the Purchase Order or the Agreement which are reasonably required for the proper performance and provision of such services;
- (j) **Specifications** means, in relation to any Products or Services:
 - (i) Redflex' required functionality and performance criteria for the Products or Services that have been communicated to the Supplier; and
 - (ii) the functional and performance representations set out or referred to in the Supplier's standard documentation for the Products or Services,

and in the event of any inconsistency between paragraphs (i) and (ii) in this definition, the functionality and performance criteria referred to in paragraph (i) will prevail to the extent of the inconsistency;
- (k) **Supplier** means the party identified as the vendor or seller in the Purchase Order or in the Agreement; and
- (l) **Supply** means the Products to be supplied or the Services to be performed and the whole of the works to be executed in accordance with these terms and conditions or the Agreement; and

1.2 Interpretation

- (a) Reference to:
 - (i) the singular includes the plural and the plural includes the singular;
 - (ii) a party includes the party's executors, administrators, successors and permitted assigns;

(iii) a thing includes the whole and each part of it separately; and

(b) "Including" and similar expressions are not words of limitation.

2 PURCHASE ORDERS

2.1 Conditions of Purchase Orders

These terms and conditions apply to all Purchase Orders issued by Redflex to any person including the Supplier.

2.2 Acceptance by Supplier

Upon the Supplier's acceptance (whether in writing or by conduct) of the Purchase Order, the Supplier agrees to these terms and conditions and the Agreement.

2.3 Variation

- (a) Any variation to these terms and conditions or the Agreement, including any Purchase Order or Specifications, must be in writing and signed by the parties.
- (b) Under no circumstances will any terms or conditions contained in, or endorsed upon, any correspondence, invoices or documents issued by the Supplier in connection with these terms and conditions or the Agreement or otherwise stated by the Supplier in making a quotation or accepting or acknowledging a Purchase Order, be binding upon Redflex or deemed to form any part of terms and conditions and the Agreement.

3 FOR THE SUPPLY OF PRODUCTS

3.1 Supply of Products

The Supplier must supply the Products and carry out the whole of work required by terms and conditions and the Agreement in a proper and workmanlike manner to the satisfaction of Redflex.

3.2 Delivery

- (a) The Supplier must deliver the Products to the shipping address stated in the Purchase Order on the Delivery Date, unless the Supplier is notified otherwise in writing by Redflex.
- (b) If it is apparent to the Supplier, that the Delivery Date will not be met, then, without prejudice to Redflex' other rights or remedies, the Supplier must immediately notify Redflex in writing and take all necessary corrective action that Redflex may direct at the Supplier's cost.

3.3 Inspection prior to delivery

Prior to delivery of the Products, Redflex may request to enter the Supplier's premises to make such inspections and tests as may be deemed necessary by Redflex to ensure that the Products comply with these terms and conditions and the Agreement. The Supplier agrees to give all reasonable and necessary assistance to Redflex to carry out such inspections and tests.

3.4 Risk

Products supplied by the Supplier to Redflex are entirely at the Supplier's risk up to the time of acceptance of the Products by Redflex.

3.5 Passing of title

Title in the Products passes to Redflex upon the earlier of delivery of the Products to Redflex or payment, without prejudice to any rights of rejection that Redflex may have.

3.6 Warranties

The Supplier represents, warrants and undertakes in relation to Redflex that:

- (a) the Products will be free from damage and defects;
- (b) it has the right to sell the Products and upon delivery to Redflex, the Products are free from any charge or other encumbrance;
- (c) where the Products are supplied by reference to a sample or description, the Products correspond with the sample and description, in terms of quality and all other respects;
- (d) the Products are of merchantable quality; and

(e) it has informed itself of the purposes for which the Products are to be acquired by Redflex and that the Products are fit for those purposes and that it is reasonable for Redflex to rely on the skill and judgment of the Supplier.

4 FOR THE PROVISION OF SERVICES

4.1 Performance of Services

The Supplier must perform the Services in a proper and workmanlike manner to the reasonable satisfaction of Redflex and in accordance with these terms and conditions and the Agreement.

4.2 Time for performance

The Supplier must perform the Services promptly and in any event, in accordance with any time-table which has been agreed in writing by the parties for the performance of the Services and complete performance of the Services by the Delivery Date.

4.3 Warranties

The Supplier represents, warrants and undertakes in relation to the performance of the Services:

- (a) that when performing the Services, it will use parts, material and other goods which are new, of good and merchantable quality and fit for their intended purpose, and which meet or exceed current industry standards;
- (b) that it will use proper and tradesman-like workmanship;
- (c) that it has informed itself of the nature of the Services and the materials necessary for the performance of the Services; and
- (d) that it has thoroughly inspected the site at which the Services are to be performed.

5 DEFECTS

The Supplier must for at minimum period of (12) months after the Delivery Date (or such longer period as may be agreed between the parties) promptly correct any damage, defect or fault (and any consequential effects of any damage, defect or fault) that is found to exist in or arisen from the Products, the performance of the Services or the carrying out of any works at its cost, including by replacing the relevant Products or re-performing the relevant Services, if requested by Redflex.

6 SUPPLY NOT IN ACCORDANCE WITH AGREEMENT

6.1 Notice of Claim

Redflex may inspect the Supply after delivery of the Products or performance of the Services and may give written notice to the Supplier of any Claim in relation to the Supply not being in accordance with these terms and conditions or the Agreement. If requested by Redflex, the Supplier must promptly replace the relevant Products or re-perform the relevant Services at the Supplier's sole cost and expense.

6.2 Redflex may withhold payment

- (a) In the event of any Claim by Redflex against the Supplier, Redflex may withhold payment of any amount owing by Redflex to the Supplier on any account whatsoever, whether under these terms and conditions, the Agreement or any other agreement between the parties, until such Claim is resolved to the satisfaction of Redflex.
- (b) The Supplier may not make a set-off against Redflex for any reason whatsoever.

6.3 Costs of return of Products

If Redflex Claims that the Products are not in accordance with these terms and conditions or the Agreement and subsequently returns the Products to the Supplier at Redflex' expense, the Supplier must refund or reimburse any Losses incurred to Redflex.

7 LIQUIDATED DAMAGES

- (a) If liquidated damages are specified in the Purchase Order and the Supplier fails to meet the Delivery Date, then, without prejudice to Redflex' other rights and remedies, for every day between the Delivery Date and:
 - (i) the actual date of delivery of the Products or completion

of the Services; or

- (ii) the date on which Redflex terminates this Agreement, whichever is the earlier, the Supplier must pay liquidated damages at the rate set out in the Purchase Order (if any) to a maximum of thirty (30%) of the total purchase price for the Products or Services. The parties acknowledge and agree that such liquidated damages are a genuine pre-estimate of the minimum damage which Redflex would suffer by reason of the Supplier's failure and that they are not intended to quantify the full extent of Redflex' Losses.

- (e) In addition to any liquidated damages specified in the Purchase Order (if any), Redflex may claim general damages from the Supplier in relation to the Supplier's failure to meet the Delivery Date.

8 PRICE

8.1 Price in Purchase Order

The price payable for the Supply is the price set out in the Purchase Order or the Agreement, as applicable.

8.2 Costs included in price

Unless otherwise stated, the price:

- (a) is exclusive of GST/VAT, but includes all other taxes, duties, levies, fees or charges; and
- (b) includes all of the Supplier's costs, including all packaging, loading, delivery to the address stated in the Purchase Order, testing and certification and travel and subsistence expenses.

8.3 Partial supply

If the Supplier is unable to deliver or perform the Supply in accordance with the Purchase Order or the Agreement, Redflex may accept partial supply and these terms and conditions and the Agreement continue to apply to the Products or Services delivered or performed.

9 INVOICE AND PAYMENT

9.1 Supplier to provide tax invoice

The Supplier must provide a valid tax invoice for each Purchase Order and attach all necessary substantiating documentation.

9.2 Payment of invoice

- (a) Subject to the performance by the Supplier of its obligations under these terms and conditions or the Agreement, Redflex will pay all correct and valid tax invoices in accordance with any payment terms set out in the Purchase Order (or if nothing is specified in the Purchase Order, within sixty (60) days of the date of receipt of an invoice).
- (b) Unless otherwise stated, all invoices must be issued in and all payments will be made in Australian Dollars.

10 GENERAL SUPPLIER OBLIGATIONS

10.1 Further Warranties

The Supplier represents, warrants and undertakes to Redflex that in supplying the Products or providing the Services to Redflex:

- (a) it will at all times be suitably qualified and experienced, and will exercise due skill, care and diligence;
- (b) it has obtained and will maintain all necessary consents, licences, permits and authorisations (other than those which Redflex is expressly required to obtain under the Agreement);
- (c) it will comply with Redflex' anti-bribery and anti-corruption policies and procedures (available upon request) and will ensure all Supplier personnel who provide the Products or Services (either in part or in full) to Redflex are fit and proper persons and agree to comply with such requirements;
- (d) the Supplier has its own anti-bribery and anti-corruption policies and procedures and that the Supplier and its personnel who provide the Products or Services (either in part or in full) to Redflex will comply with such requirements;
- (e) it will comply with all applicable laws (including Workplace Laws); and

- (f) that it is a GST/VAT registered entity (in jurisdictions where the .
- 10.2 No reliance**
- (a) The Supplier warrants that it has entered into the Agreement without relying on any representation by Redflex or any other person.
- (b) The Supplier agrees to make its own enquiries to confirm the accuracy of any information or documents supplied by Redflex, and may not rely on any such information or document.
- 10.3 Documents**
- (a) All necessary documentation and certification must be supplied to Redflex and the Supply will not be considered complete until all necessary documents and certificates have been received by Redflex in correct, valid and good order.
- (b) Any document or other property (tangible or intangible) supplied by Redflex to the Supplier remains (as between Redflex and the Supplier) the property of Redflex and must be returned immediately to Redflex upon request.
- 10.4 Confidentiality and publicity**
- (a) The Supplier must treat all information received or obtained by the Supplier in connection with the Agreement relating to the business and affairs of Redflex as confidential, and must keep the same strictly confidential and not disclose it to any person, other than to the Supplier's officers and employees and professional advisers on a strict "need-to-know" basis or as may be required by applicable law, without the prior written consent of Redflex.
- (b) The Supplier must not disclose, including in its advertising, referral or publicity material, the existence of the Agreement or the terms of its commercial relationship with Redflex or use Redflex' name, brand, intellectual property (including trade marks and patents) for publicity or reference purposes without the prior written consent of Redflex.
- 11 INDEMNITY**
- 11.1 Supplier indemnities**
- 11.2** The Supplier is liable for and indemnifies Redflex and its officers, agents and employees in respect of any Losses sustained, including:
- (a) any defect, inherent or otherwise, in the Supply or any part of the Supply, including but not limited to the replacement of any defective Supply by the Supplier at no cost to Redflex;
- (b) any Claim that the receipt, possession or use of the Products or Services by Redflex infringes the intellectual property right or other rights of any person;
- (c) any breach of these terms and conditions or the Agreement; and
- (d) any personal injury, death, disease or illness (including mental illness) of any person or loss of, or damage to, or loss of use of, any property of any person to the extent caused by the Supplier.
- 11.3 No consequential loss**
- Redflex will not under any circumstances be liable to the Supplier for any loss of profit or for any loss of an indirect, special or consequential nature whatsoever by the Supplier.
- 12 INSURANCE REQUIRED BY SUPPLIER**
- Unless otherwise specified in the Purchase Order or the Agreement, the Supplier must hold the insurances that a prudent supplier of the Products and Services would hold, including:
- (a) insurance to cover physical loss or damage to the Products;
- (b) comprehensive third party, products liability AUD\$20 million and public liability insurance of AUD\$20 million;
- (c) workers compensation insurance as required by law; and
- (d) if Services are to be provided, professional indemnity insurance of not less than AUD\$5 million.
- (e) If requested by Redflex, the Supplier must provide certificates of currency of insurance policies to Redflex.
- 13 INTELLECTUAL PROPERTY**
- (a) The Supplier acknowledges that Redflex owns the intellectual property rights in any design, drawing, specification or document (**Works**) provided to or produced for Redflex pursuant to these terms and conditions or the Agreement.
- (b) The Supplier hereby absolutely assigns and transfers (and will procure that its personnel, affiliates, sub-contractors and suppliers assign and transfer) to Redflex with full title of all existing and future intellectual property rights throughout the entire world in the Works, including all statutory and common law rights attaching thereto.
- (c) Where applicable Redflex may grant a non-exclusive licence to the Supplier to use or reproduce the Works for the sole purpose of the Supply of the Product or Services to Redflex.
- 14 GOODS AND SERVICES TAX / VALUE ADDED TAX**
- 14.1 GST/VAT**
- Except where express provision is made to the contrary and subject to this clause 14, any amount that may be payable under this Agreement is exclusive of any GST/VAT. If a party makes a taxable supply in connection with these terms and conditions or the Agreement for a consideration which represents its value, then the recipient of the taxable supply must also pay, at the same time and in the same manner as the value is otherwise payable, the amount of any GST/VAT payable in respect of the taxable supply.
- 14.2 Input Tax Credit**
- To the extent that one party is required to reimburse another party for costs incurred by the other party, those costs do not include any amount in respect of GST/VAT for which the other party is entitled to claim an input tax credit (if any).
- 14.3 Tax invoice**
- A party's right to payment under these terms and conditions or the Agreement is subject to a valid tax invoice being delivered to the recipient of the taxable supply.
- 15 DEFAULT AND TERMINATION**
- 15.1 Termination**
- Redflex may terminate the Agreement in whole or in part with immediate effect by providing written notice to the Supplier if:
- (a) the Supplier is in breach of these terms and conditions or the Agreement and such breach is incapable of being remedied (including if the Supplier advises Redflex that it is unable or unwilling to complete performance of such agreement);
- (b) the Supplier is in breach of these terms and conditions or the Agreement and such breach is capable of being remedied, but the Supplier fails to remedy the breach within seven (7) days of its receipt of a notice requiring it to do so;
- (c) the Supplier or the Supplier's personnel act or omit to act and that materially damages the brand or reputation of Redflex or in any manner calculated or likely to bring Redflex into disrepute; or
- (d) the Supplier is subject to an Insolvency Event, (each an **Event of Default**).
- 15.2 Recovery of Redflex' costs**
- If the Supplier is subject to an Event of Default or Redflex terminates the Agreement under clause 15.1, Redflex may engage others to, or itself, carry out any part or the whole of the remaining Supply. Redflex may determine the reasonable cost so incurred by Redflex and any other Losses sustained by Redflex as a consequence, and the same will constitute a debt due and owing by the Supplier to Redflex.
- 15.3 Termination for convenience**
- Redflex may for convenience and without cause immediately cancel a Purchase Order and terminate the Agreement (in whole or in part) at any time by written notice to the Supplier.

16 DISPUTE RESOLUTION

16.1 Dispute Notice

- (a) If a dispute arises between Redflex and the Supplier out of or in connection with these terms and conditions or the Agreement, either party may give the other written notice of the dispute. The notice must specify in reasonable detail the basis of the dispute.
- (b) Neither party will commence legal proceedings (other than for injunctive or other urgent relief) in respect of any such dispute before this clause 16 has been complied with.

16.2 Meeting

If a dispute notified under clause 16 has not been settled within 7 days of the date of the notice, either party may require by further notice in writing to the other, that a person holding a position of senior management of each of the parties meet in good faith and on a without prejudice basis with a view to resolving the dispute.

16.3 Continued performance

Despite the existence of a dispute, the Supplier must continue to perform its obligations under this Agreement.

17 GENERAL

17.1 Assignment

- (a) The Supplier may not sub-contract, assign, novate, transfer or otherwise dispose of or any or all of its rights and/or obligations under the Agreement without the prior written consent of Redflex.
- (b) The Supplier is liable for the acts and omissions of its personnel and its affiliates, sub-contractors and suppliers, and each of their personnel, as if such acts and omissions were those of the Supplier itself.

17.2 Entire understanding

These terms and conditions, the Purchase Order, the Specifications (if any) and the Agreement contains the entire agreement and understanding between the parties on everything connected with the subject matter of the commercial agreement and supersedes any prior agreement or understanding on anything connected with that subject matter.

17.3 Jurisdiction

The law governing these terms and conditions is the law of the State of Victoria, Australia. Each party submits to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia.

17.4 Rights cumulative

The rights, powers, privileges and remedies provided under any provision of these terms and conditions and the Agreement are cumulative and are not exclusive of any rights, powers, privileges or remedies provided under any other provision of these terms and conditions and the Agreement or by applicable law or otherwise.

17.5 No waiver

No waiver of any right under these terms and conditions or under the Agreement will be of any force or effect unless such waiver is in writing, signed by the party making the waiver and is expressly stated to be a waiver. Either party's waiver or failure to enforce any rights under these terms and conditions or under the Agreement will not in any way affect or limit that party's right thereafter to enforce strict compliance with these terms and conditions or the Agreement.

17.6 Time of the essence

Time is of the essence of these terms and conditions and of the Agreement.

17.7 Personal Property Securities Act

- (a) Redflex may, by notice to the Supplier, require it to take all steps or do any other thing that Redflex considers necessary or desirable to ensure that these terms and conditions or the Agreement or any security interest arising thereunder, is

- enforceable against the Supplier or any third party or to protect, perfect, record or better secure, or obtain or preserve the priority of, the security position of Redflex under these terms and conditions or under the Agreement. The Supplier must comply with the requirements of such a notice within the time stated in the notice at the cost of the Supplier.
- (b) The Supplier waives any rights to receive a verification statement. To the extent that Chapter 4 of the *Personal Property Securities Act 2009* (Cth) (**PPSA**) would otherwise apply to enforcement by Redflex of any security interest in collateral, the parties agree that, to the extent the PPSA allows, sections 125, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA do not apply.