

Purchase Order Terms and Conditions

1. DEFINITIONS

Acceptance means acceptance by Optus of the Supplies either:

- (a) by following the acceptance process set out in the Contract; or
- (b) if no acceptance process is specified, upon Delivery of the Supplies by the Supplier in accordance with the Contract.

Background Intellectual Property means Intellectual Property which is created prior to or independent of the Contract by Optus, Supplier or a third party.

Business Day means any day other than a Saturday, Sunday or public holiday in New South Wales.

Change in Control of the Supplier means that after the date of the Contract:

- (a) any person (other than a Supplier Group Company) becomes entitled to a Controlling stake in the issued voting shares of the Supplier or any of its Related Bodies Corporate. For the purpose of this Clause, "Control" or "Controlling" means the power to appoint the board of directors of the Supplier or Supplier Group Companies or the ability whether directly or indirectly to substantially direct or substantially influence the management and policies of the Supplier or Supplier Group Companies;
- (b) a Competitor appoints a member of the board of directors of the Supplier or any of its majority owned subsidiaries as Competitor's executive director;
- (c) the Supplier or any of its majority owned subsidiaries appoints a member of the board of directors of a Competitor as Supplier's or any of its majority owned subsidiaries' executive director; or
- (d) the Supplier, or any of its Related Bodies Corporate, enters into a registered partnership or incorporated joint venture arrangements with a Competitor to sell or market to customers in Competitive Markets.

Competitor means any entity that provides telecommunications, broadcasting or electronic information services within Singapore, Australia or any other jurisdiction in which Optus operates (as applicable) that competes with any goods and services provided by any Optus Group Company.

Competitive Markets means Singapore, Australia and any other geographic market in which Optus operates.

Contract means the contract between the Supplier and Optus containing these terms and conditions and the Purchase Order.

Deliver or **Delivery** means provision of Supplies that meet the Specifications or requirements, to or at a site, warehouse or any other location designated by Optus in the Purchase Order out of the delivery locations agreed between the parties.

Due Date means each date specified in the Contract by which the Supplier is obliged to deliver any Supplies or perform any other obligation under the Contract.

Foreground Intellectual Property means all Intellectual Property which results from or is generated pursuant to, for the purposes of, in connection with or in the course of the Contract.

GST has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Harmful Code means any hardware, computer code, computational logic, programming instructions including any malware, ransomware and/or software, that is vulnerable, harmful, destructive, disabling or which assists in or enables unlawful access, loss, theft, alteration, denial of service, unauthorised disclosure, destruction or corruption of data including viruses, worms, spyware, adware, software vulnerabilities, coding flaws, keyloggers, trojans, and any new type of threats.

Incidental Costs means all costs (including costs for delivery, shipping and Taxes excluding any GST) connected with the supply of the Supplies by the Supplier.

Insolvency Event means in relation to any party:

- (a) the party ceases, or threatens to cease, to carry on its business or a substantial part thereof;
- (b) the party is or is likely to become unable to pay its debts when they are due, is unable to or admits its inability to pay its debts, seeks to enter into any composition or other arrangement with its creditors, is declared or becomes insolvent or enters into liquidation;
- (c) any step is taken by the party to enter into any scheme of arrangement between the party and its creditors;
- (d) where the party is insolvent within the meaning of the *Corporations Act 2001* (Cth) or an analogous clause in the jurisdiction in which the entity is incorporated;
- (e) any step is taken by any person (including a creditor, mortgagee, etc.) to enter into possession or dispose of the whole or any part of the party's assets or business;
- (f) any step is taken to appoint a receiver, a receiver and manager, a judicial manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person to a party or to the whole or any part of the party's assets or business; or
- (g) if any event, process or circumstance analogous or having a substantially similar effect to any of the above, in any applicable jurisdiction, commences or exists.

Intellectual Property or **Intellectual Property Rights** means all intellectual property rights at any time and in any jurisdiction, whether registered or not, protected by statute or common law, including, but not limited to:

- (a) patents, copyright, rights in circuit layouts, registered designs and trademarks; and
- (b) any application or right to apply for registration of, sue, recover damages and obtain relief for any past, current or future infringement, misappropriation or violation of, any of the rights referred to in paragraph (a).

Laws means any applicable statute, regulation, by-law, order, ordinance, subordinate legislation, common law, industry code or standards, Sanctions or the like in force from time to time in (a) Australia, or (b) the jurisdiction in which a party is incorporated, or (c) the jurisdiction in which the Supplier is performing its obligations under this Contract, and/or (d) a jurisdiction relevant to the Supplier Group Companies' supply chain or the Supplier's performance or obligations under this Contract.

Loss means any and all loss, liability, damages, costs and expenses, fines and penalties including legal fees and disbursements and costs of investigation, litigation, settlement, judgment and interest regardless of whether they arise in contract, unjust enrichment, restitution, tort (including negligence) or under any statute, at law, in equity or otherwise.

Modern Slavery Laws means the *Modern Slavery Act 2018* (Cth), the *Modern Slavery Act 2018* (NSW), Divisions 270 and 271 of the *Criminal Code 1995* (Cth), and any other laws or regulations in force in Australia regarding slavery, servitude, forced labour, trafficking in persons (including orphanage trafficking of children), forced marriage, child labour, debt bondage and other slavery-like practices.

Optus means the Optus Group Company that issues the Purchase Order to the Supplier.

Optus Data means all information and Personal Information stored by or accessible within Optus' information infrastructure and all information collected or accessed by the Supplier that relates to Optus or a customer of Optus and/or the Supplies arising from or in relation to performance of Supplier's obligations under the Contract.

Optus Group Company means Singtel Optus Pty Ltd and each Related Body Corporate of Singtel Optus Pty Ltd.

Personal Information has the meaning given in the *Privacy Act 1988* (Cth), as amended from time to time.

Personnel:

- (a) of Optus means officers, representatives, agents and employees of Optus Group Companies or contractors of any Optus Group Company (other than the Supplier); and
- (b) of the Supplier means officers, representatives, agents and employees of the Supplier or any of its Related Bodies Corporate or any of their contractors or subcontractors.

Price for Supplies means the amount specified as the price for the Supplies in the Contract and shall include the Incidental Costs.

Purchase Order means the Optus-generated form that authorizes the Supplier to commence delivery of the Supplies.

Regulatory Authority means the Australian Competition and Consumer Commission, Australian Communications and Media Authority, the Privacy Commissioner of Australia, NSW Anti-Slavery Commissioner and any other regulator, a public official, a government minister, department or statutory body that has jurisdiction whether in or outside of Australia, or is a controlling body, in relation to an event arising from this Contract or in relation to the subject of Sanctions, any relevant authority, regulator, public official including the United Nations, government minister, department or statutory body with competence to issue, impose, administer or enforce such Sanctions whether in or outside of Australia.

Related Body Corporate has the meaning given to that term in section 50 of the *Corporations Act 2001* (Cth).

Sanctions means any sanctions, prohibitions, guidance, directions, and/or orders issued by a Regulatory Authority in relation to import/export control laws, regulations and/or any other trade compliance which adversely affects either the exercise of rights or the performance of obligations by Optus and/or Supplier under the Contract.

Serious Incident means any incident requiring notification to an authority or regulator under the WHS Laws.

Software means any software program or application to be provided by the Supplier under the Contract, including any modifications, upgrades, patches, fixes and/or associated documentation.

Specifications means any specifications included or referred to in the Contract, or subsequently agreed in writing, that set out the quality, functionality, performance, interoperability, testing or other criteria of the Supplies.

Standards means the work health and safety standards, policies, procedures and safety control measures of any Optus Group Company as amended from time to time.

Supplier means the party specified in the Contract.

Supplier Group Companies means the Supplier and/or each of its Related Corporations.

Supplies means the goods and/or services to be provided by the Supplier from time to time as set out in the Contract and any ancillary related goods and services or documentation required to provide those agreed goods and services to Optus.

Tax includes any tax, withholding tax, charge, rate, duty or impost imposed by any authority at any time, but does not include any GST or taxes on income or capital gains.

Tax Invoice has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Warranty Period means 90 days for Software and 12 months for all other goods commencing on Acceptance of those goods by Optus.

WHS Laws means applicable legislation dealing with work health and safety in Australian states, territories and the Commonwealth in place from time to time, as well as any regulations, codes of practice and/or advisory standards made under or in connection with the legislation.

2. SUPPLY

2.1 These terms and conditions do not apply where the Supplier and Optus have entered into a supply, services or consulting agreement which applies to the provision of the Supplies.

2.2 Optus may order the Supplies by issuing a Purchase Order to the Supplier. The Purchase Order must include the Contract reference number or a Purchase Order requisition

number. The details relating to the Supplies will be set out in the Purchase Order.

2.3 The Supplier must, upon Optus' issuance of a Purchase Order, supply the Supplies in accordance with the Contract and, where applicable, by the applicable Due Date.

2.4 If the Supplies include goods, title to and risk in those goods passes to Optus upon Acceptance of those goods by Optus.

2.5 Subject to clause 2.6, no confirmation, shipment or delivery docket, quote, invoice or other document issued by or on behalf of the Supplier (including the terms on any pre-printed purchase order form or shrink-wrap licence) will vary, prevail over or form part of the Contract.

2.6 Where a quote is attached to a Purchase Order, only the description of Supplies in that quote will form part of the Contract.

2.7 The Supplier agrees to the Contract by accepting the Purchase Order or commencing delivery of the Supplies.

3. PAYMENT

3.1 The Price for Supplies is in Australian dollars, is the maximum price that may be charged under the Contract, and is inclusive of Incidental Costs (excluding GST).

3.2 The Supplier must ensure that each invoice:

- (a) clearly identifies the Supplies and the Purchase Order;
- (b) itemises any GST payable and is a valid Tax Invoice for GST purposes; and
- (c) is submitted to Optus using Optus' preferred e-invoicing platform.

3.3 Optus must pay each invoice of the Supplier within 30 days after the end of the month in which the invoice is received by Optus unless:

- (a) that invoice does not comply with clause 3.2, in which case the Supplier must issue a complying invoice;
- (b) the invoice due date is a non-Business Day, which means that the next Business Day will become the due date; or
- (c) Optus disputes the amount of that invoice, in which case Optus must pay the undisputed amount and the parties must resolve the dispute by negotiation.

3.4 If the Supplier or any of its Related Bodies Corporate owes any amount to Optus or to any Optus Group Company whether under the Contract or otherwise, Optus may:

- (a) set off that amount against any amounts Optus owes to the Supplier under the Contract; or
- (b) unless other payment terms apply, invoice the Supplier for that amount, in which case the Supplier must pay each invoice within 30 days.

3.5 Except as expressly provided otherwise in this Agreement, the Supplier shall assume responsibility for and shall hold Optus harmless from payment for all Taxes that may apply at any time under the laws in force in Australia and/or the country of the Supplier, which may become due by reason of the Supplies supplied under the this Contract, and the Supplier shall execute and deliver such and other further instruments as may be necessary, including the making of payment of any interests or penalties, related to or arising from such Taxes.

3.6 If Optus is required by law to deduct or withhold Taxes from a payment to the Supplier under this Contract, Optus may make those deductions or withholdings (or both) and make any applicable payments to the relevant authorities and reduce its payment to the Supplier by such amount of deduction or withholding.

3.7 If requested, Optus will furnish the Supplier with evidence to establish that withholding tax, if any, has been paid to the relevant tax authority.

3.8 If the Supplier is non-resident of Australia (as defined under Australian tax law) for tax purposes, the Supplier advises Optus that it is not entitled to an Australian Business Number ("ABN") as it is not carrying on an enterprise in Australia.

4. FAILURE OR DELAY IN DELIVERY

4.1 If the Supplier becomes aware of a potential or actual delay in Delivery the Supplier must:

- (a) immediately notify Optus in writing the steps being undertaken to overcome the delay and any applicable workaround plan; and
- (b) comply with all reasonable requests made by Optus to prevent, lessen or rectify the delay.

4.2 If the Supplier fails to meet a Due Date and the delay has a material impact for Optus' planned use of the Supplies, Optus may, without prejudice to its other rights and remedies, terminate the Contract in whole or in part.

5. TERM AND TERMINATION

5.1 The term of the Contract commences on the date Optus issues the Purchase Order and continues until the final Due Date for delivery, unless otherwise extended or terminated pursuant to this Contract.

5.2 Optus may terminate the Contract in whole or in part on no less than 90 days' written notice to the Supplier without being liable to the Supplier in damages or otherwise, except for payment of the Price for any Supplies Accepted by Optus and any non-recoverable reasonable costs incurred by the Supplier prior to the effective date of termination.

5.3 Optus may terminate this Contract with immediate effect by giving written notice to the Supplier if:

- (a) without limiting clause 5.3(c), the Supplier breaches any material provision of this Contract and that breach is not capable of remedy;
- (b) without limiting clause 5.3(c), the Supplier breaches clause 15.8 (Singtel Group Supplier Code of Conduct) or any material provision of this Contract that is able to be remedied and fails to remedy the breach within 30 days after receiving written notice requiring it to do so;
- (c) the Supplier breaches clauses 6.1(d) or 6.1(e) (Warranties) or any part of clause 11 (Confidentiality and Privacy), clause 12 (Cybersecurity), clause 14 (Anti-Modern Slavery), clause 15.9 (Anti-Bribery and Corruption), clause 15.10 or clause 15.11;
- (d) an Insolvency Event occurs in respect of the Supplier and the Supplier is unable to perform and/or continue to perform its obligations under the Contract; or
- (e) there is a Change in Control of the Supplier.

5.4 The Supplier may terminate the Contract by giving no less than 30 days' written notice to Optus if:

- (a) an Insolvency Event occurs in respect of Optus and Optus defaults on its payment obligations under the Contract;
- (b) Optus uses the Supplies in material breach of the licence in clause **Error! Reference source not found.**(a) and fails to remedy the breach within 30 days after receiving written notice to do so;
- (c) Optus makes unauthorised use or disclosure of Supplier Confidential Information in material breach of clause **Error! Reference source not found.** and fails to remedy the breach within 30 days after receiving written notice to do so; or
- (d) Optus fails to pay the Supplier an undisputed amount payable by Optus under the Contract that is overdue for payment and at least sixty (60) days have elapsed since Optus received a notice from the Supplier identifying that the due date for payment had passed.

5.5 Termination of this Contract does not affect any accrued rights or remedies a party may have.

5.6 Clauses 4 (Failure or Delay in Delivery), 6 (Warranties), 7 (Indemnities), 8 (Insurance), 9 (Liability), 10 (Intellectual Property Rights), 11 (Confidentiality and Privacy) and 15.6 (Governing Law and Jurisdiction) continue after termination or completion of this Contract along with any clause which by its nature survives.

5.7 The Supplier shall provide prior written notice to Optus, specifying the nature of the Change in Control of the Supplier, the date on which it will occur and the impact of the transaction on the Supplier Group Companies. Such written notice shall be issued no later than three (3) months prior to the effective date of the Change in Control of the Supplier. The Supplier agrees to provide further information regarding the transaction as reasonably requested by Optus.

5.8 Upon expiry or termination of this Contract for any reason, all Foreground Intellectual Property in the possession of the Supplier must be delivered up to Optus within five (5) business days. Upon Optus' request, the Supplier must provide reasonable assistance to assist Optus Personnel to understand the Foreground Intellectual Property, including the transfer of know-how.

6. WARRANTIES

6.1 The Supplier warrants that:

- (a) all Supplies which are goods:
 - (i) will be in good working order and meet all applicable Specifications for the Warranty Period;
 - (ii) are free from defects in design, materials, workmanship and installation;
 - (iii) are of acceptable quality and fit for any disclosed purpose and use;
 - (iv) match the description, sample or demonstration model; and
 - (v) have clear title and a right to undisturbed possession, and do not have undisclosed securities;
- (b) all Supplies which are services will be provided in accordance with any relevant and applicable Specifications and with due care and skill, by competent and trained personnel;
- (c) the Supplies, and Optus' receipt and reasonable and foreseeable use of the Supplies, will not infringe any Intellectual Property Rights or moral rights of any person;
- (d) the Supplier will hold and maintain all licences, rights, titles, consents and other approvals required or necessary to lawfully provide the Supplies; and
- (e) the Supplier will comply with all Laws, all applicable regulations, declarations or directions issued by any Regulatory Authority and Optus Group Policies.

6.2 If at any time during the Warranty Period the Supplier becomes aware, or Optus notifies the Supplier of any failure of a supply to comply with any of the warranties given under clause 6.1, the Supplier, at its cost, will promptly correct that failure at no cost to Optus (without limiting any rights or remedies Optus may have).

7. INDEMNITIES

7.1 The Supplier indemnifies Optus, each other Optus Group Company and their Personnel ("those indemnified") against all Loss or other damage suffered or incurred by any of those indemnified (including those suffered or incurred as a result of a claim by a third party against any of those indemnified) to the extent relating to or arising in connection with:

- (a) any
 - (i) injury to or death of any person whomsoever; or
 - (ii) damage to any tangible property whatsoever,

due to any act or omission of the Supplier or the Supplier's Personnel arising out of or in any way relating to this Contract or the Supplies;

- (b) any fraud or unlawful act or omission of the Supplier or any of the Supplier's Personnel;
- (c) a breach by the Supplier of clauses 6.1(d) or 6.1(e) (Warranties), clause 10 (Intellectual Property Rights), clause 11 (Confidentiality and Privacy), clause 12 (Cybersecurity), clause 14 (Anti-Modern Slavery), clause 15.9 (Anti-Bribery and Corruption) or clause 15.11 (Sanctions);
- (d) any claim by a third party that any of the Supplies, or their use in accordance with this Contract, infringes the Intellectual Property Rights of any person;
- (e) any loss or misuse of Optus Data by the Supplier or any of the Supplier's Personnel; or
- (f) any Sanctions issued prohibiting the provision, procurement, use and/or maintenance of the whole or part of any of the Supplies Delivered or to be Delivered, and whether in transit, installed or Accepted by Optus.

7.2 Notwithstanding anything contained in this Contract, in the event any Regulatory Authority or other law enforcement agencies impose any fines, penalties or other pecuniary liabilities upon Optus or any other Optus Group Company by reason of a negligent or unlawful act or omission of the Supplier or any of its Personnel or a failure of the Supplier, or any Supplies, to comply with the Contract, the Supplier shall fully indemnify and compensate Optus and each Optus Group Company ("those indemnified") for the full amount of any fines, penalties or other pecuniary liability imposed by any Regulatory Authorities or other law enforcement agencies on those indemnified.

7.3 Optus holds the benefit of the indemnities in clauses 7.1 and 7.2 on trust for each of those indemnified and can, if requested by any of them, enforce it on their behalf.

7.4 Optus indemnifies the Supplier and each other Supplier Group Company and their respective Personnel against all direct loss and reasonable costs and expenses arising from a claim by a third party against any Supplier Group Company or its Personnel to the extent relating to or arising in connection with:

- (a) any
 - (i) injury to or death of any person whomsoever; or
 - (ii) damage to any tangible property whatsoever,
 due to any wilful misconduct or negligent act or omission of Optus or Optus' Personnel arising out of Optus' performance of the Contract;
- (b) a breach by Optus of clause 11 (Confidentiality and Privacy);
- (c) any fraud or unlawful act or omission of Optus or Optus' Personnel; or
- (d) any claim by a third party that use of the Supplies by Optus or any other Optus Group Company in breach of the licence in clause 10.1(a) infringes the Intellectual Property Rights or other rights of any person.

8. INSURANCE

- 8.1 The Supplier must at its cost effect and maintain:
- (a) comprehensive general liability insurance against injury to persons and damage to property to the value of AU\$1 million in aggregate limit;
 - (b) where construction works are carried out by the Supplier, contractors' all risk insurance to the value of at least \$10 million per claim; and
 - (c) all workers compensation insurance required by Laws.
- 8.2 The Supplier must ensure that:
- (a) where required by Optus, it includes Optus as a co-insured on the Supplier's insurance policies for comprehensive general liability and (if applicable) contractors' all risk insurance;
 - (b) where required by Optus, each insurance policy required under clause 8.1 shall expressly provide for the waiver of any and all rights of subrogation

against Optus to which the insurer may otherwise be entitled;

- (c) where required by Optus, each policy for comprehensive general liability and (if applicable) contractors' all risk insurance shall include a cross-liability clause such that the insurance shall apply to Optus and the Supplier and/or any other insured party as separate insured parties; and
- (d) it provides to Optus certificates of currency for insurance policies upon request.

8.3 In the event that the Supplier neglects or fails to maintain, or allows or causes any of its sub-contractors not to maintain, the policies of insurance in accordance with this clause 8, Optus shall have the right (but shall not be obliged) to arrange for such policies of insurance and the Supplier shall bear all costs and expenses (including the premiums) in connection therewith.

9. LIABILITY

9.1 The parties exclude the operation of Part 4 of the Civil Liability Act 2002 (NSW).

9.2 Each party's liability to pay for any Loss to the other party is reduced to the extent the liability was caused by the negligence of the other party or any of its Personnel.

9.3 Except where to do so would contravene any statute or cause any part of this clause to be void or unenforceable:

- (a) subject to clauses 9.4 and 9.6, the Supplier limits its aggregate liability for Loss under the Contract to an amount equal to the total contract value to be paid by Optus to the Supplier; and
- (b) subject to clauses 9.4 and 9.7, Optus limits its aggregate liability for Loss under the Contract to an amount equal to 5% of the total amounts paid or payable by Optus for the Supplies under the Contract (in addition to and without limiting Optus' obligations to pay for the Supplies in accordance with clause 3).

9.4 Except where to do so would contravene any statute or cause any part of this clause to be void or unenforceable, each party excludes liability for indirect loss, any loss of revenue, or any loss of profit.

9.5 Except where to do so would contravene any Law or cause any part of this clause to be void or unenforceable, each party excludes all terms implied, by statute, in fact, at law or otherwise.

9.6 The limitation of liability in clause 9.3(a) and the exclusion of liability in clause 9.4 do not apply to the Supplier's liability under the indemnities in clause 7.

9.7 The limitation of liability in clause 9.3(b) does not apply to Optus' liability under the indemnities in clause 7.4.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 To the extent that the Supplies contain Background Intellectual Property of the Supplier or any third party:

- (a) the Supplier grants an irrevocable, royalty free, perpetual license to copy, use and modify Supplier owned Background Intellectual Property to the extent required to enable Optus to fully utilize the Supplies; and
- (b) the Supplier shall enter into the necessary arrangements with the third party such that the third party grants Optus a licence to do the acts stated in Clause 10.1(a).

10.2 All rights or title, or interest in, all Foreground Intellectual Property shall on its creation vest immediately in and shall be the sole and exclusive property of Optus unless as otherwise agreed by the parties in writing. To the extent that any rights, title and interests in and to any Foreground Intellectual Property may remain or become vested in the Supplier or any other third party notwithstanding the foregoing, the Supplier absolutely, unconditionally and

irrevocably surrenders, assigns, transfers and conveys the ownership of all Intellectual Property Rights in the Foreground Intellectual Property to Optus free of encumbrances and third party rights. Optus may at any time request in writing that the Supplier deliver up any Foreground Intellectual Property to Optus and the Supplier must provide such Foreground Intellectual Property to Optus within five (5) business days of Optus' request. Upon Optus' request, the Supplier must provide reasonable assistance to assist Optus' personnel to understand the Foreground Intellectual Property, including the transfer of know-how.

10.3 To the extent necessary for the Supplier to Deliver Supplies under the Contract, Optus may procure for or provide to the Supplier, a right to use Background Intellectual Property owned by Optus or a third party for such limited purpose, at Optus' sole discretion and subject to any notified terms and conditions. The Supplier undertakes not to, and not to cause a third party to, use such Background Intellectual Property for any unauthorised purpose, including but not limited to, any unauthorised use or application, reverse engineering, or aiding or assisting in the reverse engineering of all or any part of such Background Intellectual Property.

11. CONFIDENTIALITY AND PRIVACY

11.1 Except as permitted or required by this Contract, each party must not use or disclose to any other person any of the other party's confidential information.

11.2 Each party may disclose the confidential information of the other party:

- (a) when required to do so by Laws or any Regulatory Authority; and
- (b) to its Personnel whose duties reasonably require such disclosure, on condition that the party making such disclosure:
 - (i) ensures that each such person to whom such disclosure is made is informed of the confidentiality of the information and is subject to substantially similar confidentially obligations; and
 - (ii) ensures that each such person to whom such disclosure is made complies with those obligations as if they were bound by them.

11.3 Except as required by Laws or the rules of any stock exchange, a party may not make any public statement about this Contract unless it has first obtained written consent from the other party.

11.4 Without limiting the effect of any other provision of this Contract, the Supplier:

- (a) must ensure that any collection, use, disclosure or handling of Personal Information in the course of performing its obligations under the Contract complies with all applicable Laws, including without limitation the *Privacy Act 1988* (Cth), the *Telecommunications Act 1997* (Cth) and the *Telecommunications (Interception and Access) Act 1979* (Cth);
- (b) must take all reasonable steps and make reasonable security arrangements to ensure that Optus Data is protected against misuse, loss, unauthorised access, modification, collection, use, copying, disposal or disclosure;
- (c) must not use, disclose or provide access to Personal Information relating to the customers (whether actual or prospective) or Personnel of any Optus Group Company or any Optus Data in or to a location outside of Australia;
- (d) must, at its cost, promptly notify Optus of any actual, or suspected data breach relating to Personal Information of Personnel or customers (whether actual or prospective) of any Optus Group Company by providing details of the data breach;
- (e) must, at its cost, provide all reasonable assistance to Optus and also in relation to any investigations

- or requests made by individuals or regulators relating to Personal Information;
- (f) must, in relation to an actual or suspected data breach: (i) take all steps to remedy it and mitigate against a re-occurrence; and (ii) comply with all reasonable directions given by Optus pursuant to Optus' obligations under the *Privacy Act 1988* (Cth);
- (g) if requested by Optus, promptly return to Optus, or destroy, all copies of Personal Information of Personnel or customers (whether actual or prospective) of any Optus Group Company that relates to this Contract;
- (h) to the extent permitted by law, must not notify any other person or party about the data breach without Optus' express prior written consent; and
- (i) must comply with the privacy and security policies, procedures, requirements and standards which form part of the Optus Group Policies.

11.5 The Supplier must do all things necessary to protect the confidentiality, availability and integrity of Optus' and other Optus Group Companies' confidential information. These measures must apply to all devices that can access the confidential information or the systems that interface or manage the confidential information, including remove access devices and mobile devices.

11.6 The Supplier must ensure that:

- (a) all of the Supplies delivered by or on behalf of the Supplier and the solutions, systems, facilities and all other equipment and infrastructure used by the Supplier and any of its Personnel in connection with the Supplies are free of Harmful Code and have anti-virus tools installed, enabled and configured to use the latest signature files provided by the anti-virus vendor; and
- (b) it shall not introduce any Harmful Code into the equipment, networks, software, systems and/or solutions of any Optus Group Company which is made available to the Supplier in connection with this Contract.

11.7 The Supplier agrees and acknowledges that monetary damages are not a sufficient remedy for any breach of this clause and that Optus shall be entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach thereof, in addition to any other remedies available at law or in equity.

12. CYBERSECURITY

12.1 In supplying the Supplies, the Supplier shall implement administrative, physical and technical safeguards that are no less rigorous than accepted industry practices on cybersecurity such as ISO27002, NIST Cybersecurity Framework, or other similar industry standards for cybersecurity.

12.2 When access to Optus Group systems or networks is in the scope of the engagement, then without prejudice to the generality of clause 12.1, the Supplier shall comply with all of Optus' cybersecurity requirements, directions, policies and procedures as specified in the Contract or which are notified to the Supplier from time to time during the term of the Contract.

- 12.3 If the Supplier becomes aware of any actual or suspected:
- (a) action taken through the use of computer networks that results in an actual or potentially adverse effect on the Supplier's information system and/or Optus Data residing on that system ("**Cyber Incident**"); or
 - (b) any other unauthorised access or misuse, damage, denial of access or destruction by any person of the Supplier's information system and/or Optus Data residing on that system ("**Other Incident**"), without limitation to any other obligations arising out of the Contract, the Supplier must:
 - (c) notify Optus in writing no later than twenty-four (24) hours of it becoming aware of the Cyber Incident or Other Incident; and

- (d) comply with any directions issued by Optus in connection with the Cyber Incident or Other Incident, including in relation to:
 - (i) obtaining evidence about how, when and by whom the Supplier's information system and/or the Optus Data has or may have been compromised, providing it to Optus on request, and preserving and protecting that evidence for a period of up to twelve (12) months;
 - (ii) implementing any mitigation strategies to reduce the impact of the Cyber Incident or Other Incident or the likelihood or impact of any future similar incident; and
 - (iii) preserving and protecting Optus Data (including as necessary reverting to any backup or alternative site or taking other action to recover Optus Data).
- 12.4 The Supplier must ensure that:
- (a) all subcontracts and other supply chain arrangements, which may allow or cause access to Optus Data, contain no provisions that are inconsistent with clauses 12.1 to 12.3; and
 - (b) all of the Supplier's Personnel and subcontractors who have access to Optus Data comply with clauses 12.1 to 12.3.
- 12.5 The Supplier must do all things necessary to confirm its compliance with the obligations set out in clauses 11.4, 11.5 and this clause 12, as well as any applicable laws, regulations and industry standards on cybersecurity. Without limitation to the foregoing, upon Optus' written request, the Supplier:
- (a) shall promptly and accurately complete a written information security/cybersecurity questionnaire provided by Optus or a third party on Optus' behalf regarding the Supplier's business practices and information technology environment in relation to all Supplies being provided by the Supplier to Optus pursuant to the Contract. The Supplier shall fully cooperate with such inquiries; and
 - (b) shall provide Optus or, upon Optus' election, a third party on Optus' behalf, access to perform an assessment, audit, examination or review of all controls in the Supplier's physical and/or technical environment in relation to all Supplies being supplied to Optus pursuant to the Contract. Such access shall include access to knowledgeable Supplier's Personnel, physical premises, documentation, infrastructure (including but not limited to facilities, networks, systems and equipment), application software and subcontractors that are used to supply the Supplies to Optus under the Contract. In addition, upon Optus' written request, the Supplier shall provide Optus with the results of any audit by or on behalf of the Supplier performed that assesses the effectiveness of the Supplier's cybersecurity program as relevant to the Supplies being supplied to Optus under the Contract. If the assessment, audit, examination or review identifies any breach, the Supplier shall do all things necessary to promptly remedy the breach. The requirement to remedy the breach is in addition to any other right or remedy of Optus in the Contract.

13. WORK HEALTH & SAFETY

- 13.1 The Supplier must ensure so far as reasonably practicable that its Personnel and any subcontractor it engages in accordance with this Contract:
- (a) comply with the WHS Laws as applicable; and
 - (b) comply with any relevant Standards where Optus notifies the Supplier that a particular Standard must be complied with.
- 13.2 The Supplier shall notify Optus immediately in writing of any Serious Incident which occurs during the delivery of the Supplies or performance of this Contract.

14. ANTI-MODERN SLAVERY

- 14.1 The Supplier must, at its own cost, comply, and use all reasonable endeavours to ensure that all persons in its supply chains comply, with all Modern Slavery Laws in the performance of its obligations and provision of the Supplies under this Contract.
- 14.2 The Supplier must provide Optus with all information and assistance reasonably requested by Optus to enable Optus to comply with its reporting obligations under Modern Slavery Laws.

15. GENERAL PROVISIONS

- 15.1 The Supplier must not assign, novate or attempt to assign, novate or otherwise transfer any right or obligation arising out of the Contract without prior written consent of Optus, which Optus may not withhold unreasonably. Optus may assign or novate any or all of its rights and/or obligations under the Contract to any of its Related Bodies Corporate by giving written notice to the Supplier without needing to obtain the Supplier's further consent.
- 15.2 Nothing in the Contract constitutes any relationship of employer and employee, principal and agent or partnership between any Optus Group Company and the Supplier.
- 15.3 If any part of the Contract is illegal or unenforceable, the rest may be enforced to the extent possible.
- 15.4 Any variations to the Contract must be evidenced in writing signed by both parties.
- 15.5 Notwithstanding anything in this Contract, Optus may, in its sole discretion, reserve the right to enter into any negotiations, arrangements or agreements with any person and entity (other than the Supplier) for the purchase or supply of the same or similar supplies contained or referred to in this Contract without being liable to Supplier in any way whatsoever.
- 15.6 This Contract is governed by the laws of New South Wales and each party submits to the jurisdiction of the courts of that State.
- 15.7 This Contract constitutes the entire agreement between the parties as to its subject matter, and in relation to that subject matter, supersedes all previous agreements, arrangements and representations between the parties in relation to that subject matter..
- 15.8 The Supplier shall (and shall use its reasonable endeavors to procure that its Personnel shall) at all times comply with the Singtel Group Supplier Code of Conduct (a copy of which is available at: <http://singtel.com/about-us/tenders> ("SCC"), as may be updated or varied from time to time, which includes but is not limited to the protection of the environment, employee health and safety, labour, and employment practice. Optus may from time to time require the Supplier and/or its subcontractors (if any) to perform a self-assessment, and/or engage a third party to conduct an on-site evaluation and/or inspection of the Supplier's systems, processes, operations and/or facilities and/or of its subcontractors (if any) ("Evaluation") to ensure compliance of the SCC. The Evaluations shall be performed no more than once in any two (2) year period, and the cost of the Evaluation shall be borne by Optus if the Evaluation reveals that the Supplier complies with the SCC. In the event the Supplier and/or its Personnel breach the SCC, the Supplier shall promptly notify Optus and give full details of such breach. Without prejudice to the other rights and remedies of Optus hereunder, at law or in equity, if the Supplier breaches the SCC, Optus may terminate the Contract pursuant to clause 5.3(b).
- 15.9 Anti-Bribery and Corruption:
- (a) The Supplier represents, warrants and agrees that the Supplier and all of its Personnel:

- (i) are in compliance and will remain in compliance with all applicable anti-bribery Laws; and
- (ii) prior to entering into this Contract have not, and shall not during the term of this Contract, give or offer to give or authorize to give to any person, or request or accept or authorize the request or acceptance of, directly or indirectly, any gratification, including any gift or consideration of any kind, facilitation payments, or anything of value (including without limitation to cash, cash equivalents like gifts, services, employment offers, loans, travel and entertainment, charitable donations, sponsorships, business opportunities, favourable contracts or giving anything even if nominal in value) as an inducement or reward for doing or not doing, or for having done or not done any action, or for receiving an improper or unfair advantage in relation to this Contract.
- (b) The Supplier shall immediately give written notice to Optus upon a breach, or suspected breach, of any of its obligations under clause 15.9(a).

15.10 Import and/or Export:

- (a) The Supplier acknowledges that the supply of the Supplies and related technical data may be subject to import, export or re-export authorisation from the Government of Australia or other countries.
- (b) The Supplier shall comply with all Laws including those in relation to import, export, re-export, and any restrictions on the transfer of goods, services or technology, familiarise itself with the relevant export authorisation procedures and obligations, and shall not directly or indirectly import, export or re-export any goods, services or related technical data or technology without first obtaining applicable authorisation from the relevant Regulatory Authority. On Optus' request, the Supplier shall promptly provide any other information required to comply with Laws including without limitation applicable export control classification number and country of origin.
- (c) In the case where the Supplier has, at the time of submission of its tender for the Supplies, stated that an import, export, re-export or other permit is not required to ship the Supplies to Australia or such other country as may be stipulated in a Purchase Order (the "**Foreign Country**"), when such import, export, re-export or other permit is required, then the Supplier shall be liable for any Loss or other damages which Optus may sustain should there be a delay or refusal in the grant of import, export, re-export or other permit by appropriate authority for the shipment of the Supplies to Australia or to the Foreign Country, resulting in any delay or failure in the Delivery of the Supplies to Optus.

15.11 Sanctions

- (a) The Supplier represents and warrants that neither it, each other Supplier Group Company nor any of their respective officers, directors or Personnel:
 - (i) is the subject of any Sanctions administered or enforced by any Regulatory Authority or listed under any Restricted Persons List or other similar lists, regulations or orders issued by any Regulatory Authority;
 - (ii) have violated or during the term of this Contract will violate any Laws;
 - (iii) whether directly or indirectly export, re-export, import or transfer goods and/or services, or have funded or engaged, is funding or engaging, or will fund or engage in any activities with any individual or entity listed under the US

Commerce Department's Table of Denial Orders, US Embargoes Countries, the Restricted Persons Lists or listed under other similar lists, regulations or orders issued by any Regulatory Authority or involved in any activities restricted under the Law whether in connection with this Contract or otherwise; and

- (iv) it shall not use any information, goods and/or services for military purposes including espionage (whether cyber-espionage attacks or otherwise) or sell, design, develop, produce, manufacture, stockpile or in any manner handle conventional weapons and/or nuclear, chemical, biological weapons or missiles ("Weapons of Mass Destruction") in violation of any Laws. The Supplier Group Companies further agrees that it will not provide any goods and/or services to any third party if the Supplier Group Companies know or there are sufficient reasons to suspect that the end user of any such goods and/or services will use them for military purposes including espionage (whether cyber-espionage attacks or otherwise) or for the development, and/or manufacture of any Weapons of Mass Destruction.

For the purposes of this clause, "**US Embargoed Countries**" means countries that are subject to a comprehensive embargo under the US Export Administration Regulations ("**EAR**") or the US Office of Foreign Assets Control ("**OFAC**") regulations. "**Restricted Persons Lists**" means the US Department of Treasury's Specially Designated Nationals and Blocked Persons list, Foreign Sanctions Evaders list and the US Department of Commerce's Entity List, and the Denied Persons List) and/or any lists maintained by the United Nations Security Council, the United Kingdom, the European Union or its member states, or other applicable governmental authority.

- (b) Notwithstanding any provision to the contrary in this Contract, Optus may suspend or terminate the Contract immediately without any liability to the Supplier, in the event of a breach by the Supplier of this clause and/or clause 15.10.
- (c) Optus shall not be taken to have caused or be liable for any delay or failure to pay or perform any other obligations under the Contract, to the extent that:
 - (i) the Supplier, the Supplier Group Companies and/or their Personnel are listed in or otherwise subject to any Sanctions or listed under any Restricted Persons Lists or other similar lists, regulations or orders issued by any Regulatory Authority; or
 - (ii) performing such obligation(s) would result in Optus breaching any Sanctions and/or laws or would expose Optus to the risk of being in breach of any Sanctions and/or laws.

15.12 Supplier's Personnel

- (a) The Supplier shall conduct and complete background checks in the applicable jurisdiction on its Personnel that are appropriate to the Personnel's role in providing the Services which may include but not be limited to checks on criminal records, education history, credit history, employment history, or such other checks as are reasonably requested by Optus to demonstrate a good character and standing of the Personnel. The Supplier warrants that its Personnel are not in violation of any Laws and are capable of performing the work assigned to them under the Contract. The Supplier shall promptly notify Optus in writing if there are any adverse changes to the standing of its Personnel that may affect their fitness to perform any of the services assigned to them under this Contract, and the Supplier shall also provide the updated information or documentation reasonably requested by Optus in relation to such adverse changes.
- (b) The Supplier shall maintain a register of its Personnel, containing the results of the background checks and confirm to Optus on request whether Personnel passed the background checks. The Supplier shall provide and procure that its Personnel agree to:
 - (i) provide such information as Optus may reasonably request from time to time; and
 - (ii) Optus performing background checks as contemplated in clause 15.12(a) as necessary or appropriate in the circumstances.

- (c) The Supplier must not appoint any person as Supplier Personnel to provide the Services where that Personnel has not passed the relevant background checks.

15.13 Audit

The Supplier shall at no cost to Optus:

- (a) keep (and ensure any subcontractors keep) adequate accounts, documents and records in sufficient detail to support the Supplier's compliance with the Contract, the applicable Laws and the accuracy of its invoices; and
 - (b) at all reasonable times and on reasonable notice give Optus or any of its nominees full access to those accounts, documents and records as well as relevant premises, facilities, systems and Supplier's Personnel,
- to enable Optus to determine the Supplier's compliance with the Contract, the applicable Laws and the accuracy of its invoices. If the audit identifies any Supplier's breach and/or non-compliance with the Contract, the Supplier shall at its own cost do all things necessary to promptly remedy such breach and/or non-compliance. The Supplier shall thereafter notify Optus in writing once such breach and/or non-compliance has been remedied. The requirement to remedy the breach is in addition to any other right or remedy of Optus in the Contract. Optus will endeavour to limit its exercise of rights under clause 15.13(b) to no more than once in a 12 month period, however, Optus reserves the right to exercise such rights more frequently where appropriate including if Optus holds a reasonable concern with the Supplier's compliance with the Contract or the applicable Laws or the accuracy of the Supplier's invoices.