

- (1) By purchasing goods and/or services from Area9 Pty Ltd ("Area9"), you the client ("Client") confirm your agreement to be bound by these Standard Terms of Business ("this Agreement").
- (2) The term of this Agreement shall commence on the date on which you first request provision of goods and/or services from Area9 and shall continue until:
  - (a) Such time as the particular request has been fulfilled, *that is:* in respect of that particular request, the goods or services have been supplied and invoiced by Area9 and the Client has made payment in full in accordance with clause (8).
- (3) Area9 shall provide the specified goods and/or services to Client during the term of this Agreement.
- (4) Client acknowledges that delivery dates for goods and/or services are estimates only. Area9 will use its reasonable endeavours to supply goods and/or services by the date specified. Area9 will not be liable for any delay for reasons beyond its control. Both parties agree that a delay in delivery shall not constitute a breach of an essential term of this Agreement.
- (5) All goods provided to Client from Area9 remain the property of Area9, notwithstanding delivery to Client, until payment in full for those goods is received by Area9.
- (6) All risk in goods provided to Client shall pass to Client on delivery to Client.
- (7) Return of goods to Area9:
  - (a) No claim for return of goods will be recognised by Area9 unless received by Area9 within 5 days of Client receipt of goods; and
  - (b) Unless expressly allowed otherwise by Area9, goods procured to Client instructions or specifications are non-returnable; and
  - (c) Opened goods are non-returnable.
- (8) Payment shall be made by Client to Area9 before the delivery of goods and/or the performance of the services, except where Client has a current credit facility with Area9. In the event Client has a current credit facility with Area9 Client agrees to pay Area9 the goods and services fees in accordance with Area9's invoice, without deduction, within the time period specified on the invoice.
- (9) Client shall reimburse to Area9 all expenses incurred by Area9 in providing goods and/or services including, but not limited to travel expenses, accommodation expenses, parts and other consumables. Area9 shall first obtain the written consent of Client to incur the cost.
- (10) Client will pay any goods and services tax payable in relation to goods and/or services provided by Area9.
- (11) Unless expressly stated otherwise taxes shall be included in the fees shown; however Client acknowledges that should new taxes be introduced or existing taxes be amended during the term of this Agreement, Area9 reserves the right to adjust its pricing accordingly.
- (12) Where Area9 personnel, employees or agents attend Client site Client must provide a safe and suitable workplace, which complies with all relevant workplace health and safety laws; and Client will notify Area9 and any relevant authorities immediately of any work related incidents or injuries affecting Area9 personnel, employees or agents.
- (13) Client agrees to provide Area9 and its personnel access to Client's premises and such information and equipment as is reasonably necessary to enable Area9 to provide the goods and/or perform the services.
- (14) The intellectual property rights in all intellectual property owned by any of the parties (if any) at the commencement date of this Agreement remains the property of that party.
- (15) The intellectual property rights in all intellectual property developed by Area9, in providing the goods and/or performing the services to Client shall become and remain the property of Area9.
- (16) Area9, its agents and employees, will ensure that all confidential information of Client is not disclosed to any person other than as permitted by Client in writing or as required by law.
- (17) The Client, its employees and agents; shall not disclose or permit to be disclosed to any third party any confidential information of Area9, except as permitted by Area9 in writing or as required by law.
- (18) The Client shall not, without the written approval of Area9, disclose to any third party (other than their legal advisers, or otherwise as required by law) any of the terms of this Agreement.
- (19) The Client acknowledges that Area9 may collect Personal Information (given the meaning ascribed to it under the Privacy Laws) in connection with this Agreement, and the Client consents to the Personal Information being collected by Area9 as required in accordance with Privacy Laws and Area9 Privacy Policy, that can be viewed at: <http://www.area9.com.au/privacy>;
- (20) The Client will not, without the prior written consent of Area9, assign or attempt to assign its rights or obligations under this Agreement.
- (21) **Third party software end-user license terms and conditions are provided by the relevant software provider on their web site**, if Area9 provides any third-party software to the Client, then:
  - (a) Area9 does so subject to the licence terms and conditions that apply to that software; and
  - (b) It is the Client's responsibility to read and understand any software provider end-user licence agreement terms and conditions that are applicable in respect of any software provided to the Client by Area9; and
  - (c) The Client hereby acknowledges and agrees to the software provider end-user licence agreement terms and conditions that are applicable in respect of any software provided to the Client by Area9; and
  - (d) The Client indemnifies and holds harmless Area9 in respect of any loss, damage, penalty or claim arising out of or in connection with the Client's use of such software.
- (22) If the Client requests Area9 to install software on the Client's system then:
  - (a) The Client warrants that it has or will forthwith obtain an appropriate licence from the software provider; and
  - (b) Client indemnifies Area9 in respect of any claims by the software provider in respect of that installation.
- (23) Client shall receive the benefit of all warranties and conditions which are implied by law and which Area9 may not lawfully exclude.
- (24) Area9's liability arising out of or in connection with the provision of goods or services to the Client and/or any warranty or condition of contract for the provision of goods and/or services, whether arising through the negligence of Area9, its servants or agents or otherwise, is limited to one of the following at the option of Area9:
  - (a) In the case of provision of goods, the (i) replacement of the goods; or (ii) repairing of the goods; or (iii) supplying of equivalent goods; or (iv) supplying of the goods again; or (v) payment of the cost of replacing the goods; or (vi) payment of the cost of acquiring equivalent goods; and
  - (b) In the case of performance of services, the (i) supplying of the services again; or (ii) payment of the cost of supplying the services again.
- (25) Area9 excludes all liability for any kind of special, consequential, incidental, indirect loss and/or damage, including loss of revenue, lost of profits, loss of data, loss of production or business interruption, loss or denial of opportunity, loss of access to markets, loss of goodwill, loss of business reputation, indirect, remote, abnormal or unforeseeable loss or any similar loss whether in contract, tort, including negligence, statute in equity or otherwise

- incurred by or awarded against Client arising in any way out of or in relation to the supply of goods and/or services.
- (26) The provisions of the following clauses shall survive the expiry of this Agreement:  
(14)(15)(16)(17)(18)(21)(22)(24)(25)(32)(33)(34).
- (27) A party will not be liable for any failure or delay in the performance of its obligations under this Agreement if that failure or delay is due to force majeure; however, this clause (26) does not apply to any Client obligation to pay money for goods provisioned or services performed by Area9 prior to such force majeure event.
- (28) Unless expressly stated otherwise in Area9 supplied documentation (if any) should there be any inconsistency between the provisions of this Agreement and the provisions of the Area9 supplied documentation, this Agreement shall prevail to the extent of that inconsistency.
- (29) Notwithstanding clause (28) in the event of an executed and current contract between the Client and Area9; should there be any inconsistency between the provisions of this Agreement and the provisions of the executed and current contract, the executed and current contract shall prevail to the extent of that inconsistency.
- (30) Notwithstanding clause (29) in the event Client provides a purchase order, for purchase of goods and/or services from Area9, any terms on such purchase order that are in addition to or in contradiction of the terms of this Agreement shall be inapplicable and unenforceable, unless expressly agreed otherwise in writing by Area9.
- (31) The failure of Area9 at any time to insist on performance by Client of any obligation under this Agreement is not a waiver of Area9's right:
- (a) To insist on the providing of, or
  - (b) To claim damages for breach of, that obligation unless Area9 acknowledges in writing that the failure is a waiver; and any delay in exercising Area9's right is not a waiver of that right or any other right including the right to insist on performance of that or any other obligation at any other time.
- (32) Any provision of this Agreement which is illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability without invalidating the remaining provisions of this Agreement.
- (33) This Agreement shall be interpreted in accordance with the laws of the Northern Territory of Australia in the Commonwealth of Australia; and the parties agree to submit to the exclusive jurisdiction of the courts of that Territory.
- (34) Area9 documentation may not be copied, photocopied, reproduced, translated or reduced to any electronic medium or machine readable form, in whole or part, without the written consent of Area9, except in the manner (if any) described in such documentation.
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