

# PURCHASE ORDER TERMS AND CONDITIONS



University of the  
Sunshine Coast  
Australia

## 1. Definitions

In these Terms and Conditions:

**Contractor** means the provider of Goods and/or Services described in the Purchase Order;

**Goods** means the goods described in the Purchase Order to be provided by the Contractor;

**Intellectual Property** means all data, information, designs, inventions, processes, computer programs, techniques, methodology, know-how and trade secrets, discovered or produced by the Contractor, its employees, agents and subcontractors providing the Goods and/or Services;

**Purchase Order** means the document issued by the University to the Supplier and to which these terms and conditions apply;

**Supplier** means the supplier identified in the Purchase Order;

**Services** means the services described in the Purchase Order to be provided by the Contractor;

**Total Order Amount** means the amount (including GST) described in the Purchase Order, to be paid by the University to the Contractor for the Goods and/or Services provided;

**University** means University of the Sunshine Coast.

## 2. Goods and Services

- 2.1. The Contractor will provide the Goods and/or Services to the University in accordance with the Purchase Order and these Terms and Conditions.
- 2.2. The Contractor will and will employ properly qualified and skilled persons to, provide the Goods and/or Services, expeditiously and diligently and exercising professional skill, care and diligence.
- 2.3. The Contractor will inform itself of the University's requirements for the provision of the Goods and/or Services and acknowledges that it has carefully considered the contents of any drawings, specification, bills of quantity (if any) and any other information made available to it by the University (including examining any places at which the Goods and/or Services are to be provided).
- 2.4. The University may by written notice to the Contractor suspend the provision of the Good and/or Services for the period stated in such a notice. If the University suspends the provision of the Goods and/or Services and then requires the Contractor to recommence the provision of the Goods and/or Services, upon recommencement the University and the Contractor will negotiate in good faith any additional costs payable by the University to the Contractor and the dates applicable to the provision of the Goods and/or Services.
- 2.5. The Contractor will, and will ensure that its employees, agents or representatives providing the Goods and/or Services will, when using or upon the University's premises or facilities, strictly comply with all reasonable directions and procedures including those relating to security and workplace health and safety which are in effect at those premises or in regard to those facilities and will comply with any policies or procedures promulgated by the University.
- 2.6. The Contractor will provide the Goods and/or Services in accordance with all relevant statutes, delegated legislation and the requirements of any statutory authority, and at its own risk.
- 2.7. The Contractor must not subcontract the provision of any part of the Goods and/or Services without the University's prior written consent.

## 3. Payment of Total Order Amount

- 3.1. The University has no obligation to pay the Total Order Amount unless and until the Goods and/or Services are satisfactorily provided (in the University's absolute discretion).
- 3.2. Accordingly, subject to the Goods and/or Services being satisfactorily provided (in the University's absolute discretion), the University will pay the Total Order Amount to the Contractor.
- 3.3. The Contractor must deliver invoices to the University which:
  - (a) describe the Goods and/or Services provided;
  - (b) if the Total Order Amount is calculated by reference to hours or days worked, indicate the hours or days worked, with any supporting documentation that the University may require;
  - (c) if the Total Order Amount is calculated by reference to the achievement of a particular milestone, include evidence that the milestone has been achieved.
- 3.4. Subject to the University being satisfied with the invoice delivered and the provision of the Goods and/or Services to which the invoice relates, the University will pay the amount invoiced within thirty (30) days of the receipt of the invoice.

## 4. Intellectual property

- 4.1. Any Intellectual Property arising from the provision of the Goods and/or

Services will be the sole property of the University provided that nothing in this will affect material the subject of pre-existing intellectual property rights of the Contractor or third parties pre-dating the Purchase Order, but the Contractor hereby grants and will ensure that relevant third parties grant, to the University, a perpetual, non-exclusive, non-transferable, irrevocable paid up licence to use, reproduce, adapt and perform any other act with respect to those pre-existing intellectual property rights

- 4.2. The Contractor hereby assigns to the University all Intellectual Property arising from the provision of the Goods and/or Services.
- 4.3. The Contractor warrants that the Intellectual Property arising from the provision of the Goods and/or Services, does not infringe the rights of another person.
- 4.4. The Contractor will sign any document required by the University to vest the Intellectual Property arising from the provision of the Goods and/or Services, in the University.
- 4.5. The Contractor's obligations in this Clause 4 are continuing, separate and independent of other obligations and will survive the provision of the Goods and/or Services.

## 5. Licences and approvals

The Contractor and any person who performs or provides the Goods and/or Services on behalf of the Contractor will comply with the requirements (including registration or licensing) of any relevant profession or industry. In particular, the Contractor and any person who performs or provides the Goods and/or Services must obtain and continue to hold at all relevant times all approvals, authorities, licences and permits that are required from any government, municipal or other responsible authority for the lawful provision of the Goods and/or Services, and promptly provide evidence of having obtained such approvals, authorities, licences and permits to the University upon request.

## 6. No agency

- 6.1. The Contractor is not the agent or an employee of the University.
- 6.2. The Contractor does not have authority to bind the University, will not do anything to purport to bind the University and will not represent itself to be the agent or a representative of the University.

## 7. No conflict of interest

- 7.1 The Contractor warrants that neither it nor any of its employees has any conflict of interest with respect to the provision of the Goods and/or Services.
- 7.2 The Contractor will immediately notify the University if any such conflict of interest arises.

## 8. Insurance

- 8.1. The Contractor warrants that it has in place and will whilst providing the Goods and/or Services, effect and maintain, all necessary insurance for the provision of the Goods and/or Services.
- 8.2. The Contractor will, if requested by the University, provide to the University copies of the certificate(s) of currency for the insurance policies effected by it.

## 9. Indemnity

- 9.1. The Contractor indemnifies the University (its officers and employees) from and against all actions, claims, proceedings and demands (including those brought against the University by third parties) brought or made in respect of any loss, damage, death, injury, illness or damage arising out of or in connection with the provision of the Goods and/or Services.
- 9.2. The Contractor's obligation to indemnify in Clause 9.1 is a continuing obligation separate and independent of other obligations and will survive the provision of the Goods and/or Services.

## 10. Confidentiality

- 10.1 The Contractor will not, unless expressly authorised by the University, disclose any information concerning the business or affairs of the University or the Purchase Order, to any person, and will not permit any officer, employee, sub-contractor or agent of the Contractor to do so.
- 10.2 Nothing in this Clause will restrict the Contractor from passing on information where it is necessary for the Contractor to seek professional advice or to defend itself from any suit or claim.
- 10.3 The Contractor's obligation in Clause 10.1 is a continuing obligation separate and independent of other obligations and will survive the provision of the Goods and/or Services.

## 11. Termination

- 11.1. The University may terminate the provision of the Goods and/or Services at any time, without giving any reason, by seven (7) days written notice to the Contractor. If the University so terminates the provision of the Goods and/or Services, the

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University will pay the Contractor in respect of the Goods and/or Services provided to that time (in full and final satisfaction of all claims by the Contractor), subject to and conditional upon the Contractor providing appropriate supporting documentation to the University detailing all Goods and/or Services provided by the Contractor to the University. For the avoidance of doubt, the Contractor will not be entitled to loss of prospective profits in such circumstances.

- 11.2. If:
- (a) one party is in default of an obligation pursuant to these Terms and Conditions; and
  - (b) the non-defaulting party gives written notice to the party in default requiring the default to be remedied within seven (7) days of that notice; and
  - (c) the party in default fails to comply with the notice referred to in paragraph (b) then
- the non-defaulting party may terminate the provisions of the Goods and/or Services by a further written notice to the party in default.

## 12. Service of notices

- 12.1. A notice may be served by hand delivery or registered post to the party to be served.
- 12.2. A notice is deemed to have been received by the party served, upon delivery or within four (4) days of the date of posting.

## 13. Agreement

- 13.1. Subject to Clause 13.3, the whole agreement between the University and the Contractor is contained in the Purchase Order and these Terms and Conditions.
- 13.2. No variation to the Purchase Order or these Terms and Conditions will bind the parties unless that variation is in writing and is signed by the parties.
- 13.3. The agreement between the University and the Contractor contained in these Terms and Conditions may be replaced by another agreement in writing signed by the parties.

## 14. Jurisdiction

The provision of the Goods and/or Services in accordance with these Terms and Conditions is governed by and construed in accordance with the laws of Queensland. The parties hereby submit themselves to the jurisdiction of the Courts of Queensland.

## 15. Modern Slavery

- 15.1 The Contractor warrants and agrees that:
- (a) it ensures that Modern Slavery is not taking place in any part of its operations and supply chains and those of any entities that it controls;
  - (b) it conducts its business in a manner that is consistent with the obligations in (a);
  - (c) neither the Contractor, nor any of its officers, employees or other persons associated with the Contractor has been convicted of any offence involving Modern Slavery;
  - (d) having made reasonable enquiries, to the best of its knowledge, neither the Contractor nor any of its officers, employees or other persons associated with the Contractor have been or is the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with Modern Slavery; and
  - (e) it may be requested to deliver to the University an annual statement and such other information or reports as may reasonably be required from time to time by the University to comply with the requirements, or avoid any contravention, of the Act.
- 15.2 For the purposes of Clause 15.1:
- (a) **Act** means the *Modern Slavery Act 2018* (Cth);
  - (b) **Modern Slavery** means the eight offences contained in the Commonwealth Criminal Code Divisions 270 and 271, namely, trafficking in persons, slavery, servitude, forced labour, debt bondage, the worst forms of child labour, and deceptive recruiting for labour or services.

## 16. Ethical Supplier Threshold

- 16.1 In performing its obligations under the Purchase Order and these Terms and Conditions, the Contractor is required to comply with the Ethical Supplier Threshold and the University may monitor the Contractor's compliance with the Ethical Supplier Threshold. The Contractor agrees that the University may obtain any relevant information from the Contractor or about the Contractor for this purpose.
- 16.2 The Contractor acknowledges and agrees that the State may publish information about sanctions imposed on the Contractor under the Ethical Supplier Mandate for the breaches of the Ethical Supplier Threshold.
- 16.3 For the purposes of this Clause:
- (a) **Ethical Supplier Threshold** means the Ethical Supplier Threshold described in paragraph 2.3 of the Queensland

Procurement Policy; and

- (b) **Ethical Supplier Mandate** outlines how the Queensland Government will manage instances where a supplier fails to comply with a policy requirement, regulatory requirement or contractual obligation, and how penalties will be applied.

## 17. Interpretation

In these Terms and Conditions:

- (a) headings are inserted for ease of reference only and will not form part of nor be used in the interpretation of these Terms and Conditions;
- (b) words importing the singular will include the plural and vice versa;
- (c) reference to legislation includes any amendment to it, any legislation substituted for it, and any subordinate legislation made under it;
- (d) a provision must be read down to the extent necessary to be valid. If it cannot be read down to that extent, it must be severed;
- (e) a reference to "including" should be read as "including, without limitation";
- (f) a reference to dollars or \$ is to Australian currency;
- (g) no rule of construction applies to the disadvantage of a party because that party put forward this Agreement or any portion of it; and
- (h) where this agreement refers to the "satisfaction", "consent", "approval", or similar indication of assent or consent on the part of any party in relation to a particular matter, in the absence of an express qualification that the party in question act "reasonably" or "in good faith" or in a particular manner such party may withhold the same for any reason in its absolute discretion.