



General Purchase Order Conditions

1. General

Upon the Supplier's acceptance of the Purchase Order (whether in writing or by conduct), the Supplier agrees to the terms and conditions in this General Purchase Order Conditions (**GPOC**).

The Contract comprises of:

- (a) this GPOC;
- (b) the Purchase Order (attached or provided separately); and
- (c) any Additional Terms.

Apart from the above, no additional terms and conditions proposed by the Supplier apply to the provision of the Goods and/or Services unless agreed in writing by CSC. If there is any inconsistency between the Purchase Order and the GPOC, the Purchase Order prevails to the extent of that inconsistency.

2. Provision of Goods and/or Services

The Supplier must provide the Goods and/or Services to CSC on the date, place, and in the manner stated in the Purchase Order. CSC may acting reasonably specify in writing to the Supplier another date, place or manner for delivery or performance, in which case that other date, place or manner applies in place of that stated in the Purchase Order.

All Goods must:

- (a) be delivered free from all Encumbrances;
- (b) be free from defects in materials and workmanship, be of merchantable quality and be fit for their purpose;
- (c) meet any requirements or standards specified in the Purchase Order;
- (d) be new and unused, unless otherwise stated in the Purchase Order; and
- (e) be packed, marked and labelled to ensure their safe delivery and safe handling by CSC after delivery and, if specific packing, marking or labelling is required under the Purchase Order, the Supplier must comply with those requirements.

All Services must:

- (a) be provided to the standard that would be expected of an experienced and professional supplier of similar services;
- (b) be free from defects in performance, meet their purpose and be complete; and
- (c) meet any other standard and requirements specified in the Purchase Order.

3. Delays

The Supplier must promptly notify CSC if it becomes aware that it will be unable to provide all or part of the Goods and/or Services by the relevant date(s) and advise CSC as to when it will be able to do so.

4. Acceptance

CSC may accept or reject the relevant Goods and/or Services within the Acceptance Period. CSC may only reject the Goods and/or Services where the Goods and/or Services do not comply with the requirements of the Contract.

If during the Acceptance Period, circumstances outside CSC's reasonable control causes a delay in CSC's evaluation of the Goods and/or Services' compliance with the Contract, CSC may give the Supplier a written notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).

If CSC does not notify the Supplier of acceptance or rejection within the Acceptance Period, CSC will be taken to have accepted the Goods and/or Services on the expiry of the Acceptance Period.

If CSC rejects the Goods and/or Services, CSC may:

- (a) require the Supplier to repair or modify the Goods and/or Services, within a period determined by CSC, at the Supplier's cost, so that the Goods and/or Services meet the requirements of the Purchase Order; or

- (b) require the Supplier to provide, at the Supplier's cost, replacement Goods and/or Services which meet the requirements of the Purchase Order, within a period determined by CSC; or
- (c) terminate the Contract in accordance with clause 21.

In any case, and at CSC's request, the Supplier must, at its own cost, promptly remove any rejected Goods and/or Services from CSC's premises. Replacement, repaired or modified Goods and/or Services are subject to acceptance under this clause 4. No payment will be due for rejected Goods and/or Services until their acceptance by CSC. The Supplier will refund all payments related to rejected Goods and/or Services, unless replacement or repaired Goods and/or Services are accepted by CSC.

5. Title and Risk

Title to the Goods and/or Services transfers to CSC upon their acceptance by CSC in accordance with clause 4. The risk of any loss or damage to the Goods and/or Services remains with the Supplier until their delivery to CSC at the delivery location.

6. Price and Payment

Subject to CSC's acceptance of the Goods and/or Services as per clause 4 above, CSC must pay the Supplier, the Contract Price within 20 days after receiving a Correctly Rendered Invoice from the Supplier. If this 20-day period ends on a day that is not a business day, payment is due on the next business day.

The Contract Price is firm and fixed, and is the maximum price payable by CSC to the Supplier for the provision of Goods and/or Services. CSC is not required to pay any amount in excess of the Contract Price.

The Contract Price is inclusive of all GST and all taxes, duties (including any customs duty, government charges imposed or levied in Australia or overseas) the cost of any packaging, marking, handling, freight and delivery, insurance and any other applicable costs and charges, unless expressly stated as otherwise in the Purchase Order.

Approval and payment of a Correctly Rendered Invoice is not evidence of the value of the obligations performed by the Supplier, an admission of liability or evidence that the obligations under the Contract have been completed satisfactorily, but is payment on account only.

If the Supplier owes any amount to CSC in connection with the Contract, CSC may set off that amount, or part of it, against its obligation to pay any Correctly Rendered Invoice.

7. Insurance

The Supplier must obtain and maintain adequate insurance cover sufficient to cover any loss or costs that may be incurred and for which the Supplier is liable in connection with the provision of the Goods and/or Services, including, as applicable, product liability insurance, public liability and professional indemnity insurance. If requested, the Supplier must provide CSC with evidence of the insurances remaining in force.

8. Indemnity

The Supplier indemnifies CSC, its officers, employees, agents and contractors against any liability, loss, damage, cost (including the cost of any settlement and legal costs and expenses on a solicitor and own client basis), compensation or expense arising out of or in any way in connection with:

- (a) any unlawful, wilful or negligent act or omission on the part of the Supplier, its officers, employees, agents or subcontractors; or
- (b) any action, claim, dispute, suit or proceeding brought by any third party in respect of any use, infringement or alleged infringement of that third party's Intellectual Property Rights,
in connection with the Goods and/or Services.

The Supplier's liability to indemnify CSC under clause 8(a) is reduced to the extent that any wilful default or unlawful, or negligent act or omission of CSC, its officers, employees or contractors contributed to the liability, loss, damage, cost, compensation or expense. CSC holds the benefit of this indemnity on trust for its officers, employees, agents and contractors.

9. Compliance with the Law

The Supplier must comply with and ensure its officers, employees, agents and subcontractors comply with all laws from time to time in force including in the State, Territory or other jurisdictions in which any part of the Contract is to be carried out and all Commonwealth laws and policies relevant to the provision of the Goods and/or Services under the Contract.

10. Access to CSC Premises and Data

When accessing any CSC premises, area or facility, the Supplier must comply with:

- (a) CSC's reasonable directions; and
- (b) all policies and procedures of CSC including occupational health, security and safety requirements notified to the Supplier or of which the Supplier is, or should reasonably be aware including but not limited to CSC's Personnel Security Management Policy.

The Supplier must ensure that any information, data, equipment and property (including security-related devices and clearances) provided by CSC for the purposes of the Contract is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by CSC.

The Supplier must ensure that its officers, employees, agents and subcontractors are aware of, and comply with, the requirements in this clause 10.

11. Intellectual Property Rights

Intellectual Property Rights in the Goods provided under this Contract or pre-existing Intellectual Property Rights will not change as a result of this Contract.

The Supplier grants a licence to CSC to allow CSC full use of the Goods and/or Services for their intended purpose. The Supplier warrants that it owns all Intellectual Property Rights necessary to grant this licence.

12. Approvals and Warranties

At no additional cost to CSC, the Supplier must obtain and maintain any licences or other approvals required for the lawful provision of the Goods and/or Services and arrange any necessary customs entry for the Goods and/or Services.

If the Supplier is a manufacturer, the Supplier must provide CSC with all standard manufacturer's warranties in respect of the Goods and/or Services it has manufactured. The Supplier must provide, or procure that CSC receives, all relevant third party warranties in respect of the Goods and/or Services.

Without limiting any other warranty given by the Supplier pursuant to this Contract, if CSC gives notice of any defect or omission discovered in the Goods and/or Services, the Supplier must correct that defect or omission without delay and at no cost to CSC. The Supplier must meet all costs of, and incidental to, the discharge of warranty obligations, including any packing, freight, disassembly and reassembly costs.

The Supplier warrants that all representations, warranties, declarations, statements, information and documents made or provided by the Supplier (including its representatives) in connection with the Contract are complete, accurate, up to date and not misleading in any way.

13. Privacy

The Supplier agrees to comply and ensure that its officers, employees, agents and subcontractors comply with the *Privacy Act 1988* (Cth) and do (or refrain from doing) anything required to ensure that CSC is able to comply with its obligations under that Act.

The Supplier will immediately notify CSC if the Supplier becomes aware of a breach or possible breach of any of its obligations under this clause 13.

14. Confidential Information

The Supplier must treat, and require its employees, agents and subcontractors to treat, all confidential information of CSC given and/or identified or

marked as confidential in connection with the Contract confidential. The Supplier must not disclose to any person any confidential information relating to the Contract or the Goods and/or Services, without the prior written consent of CSC.

At any time, CSC may require the Supplier to arrange for its employees, agents or subcontractors to give a written undertaking relating to non-disclosure of CSC's confidential information in the form reasonably acceptable to CSC.

CSC will keep any information in connection with the Contract confidential to the extent CSC has agreed in writing to keep such specified information confidential. CSC will not be in breach of any confidentiality agreement if CSC discloses any information (including any confidential information) in connection with the Contract:

- (a) as required by law;
- (b) to any House or Committee of Parliament or CSC's responsible minister; and
- (c) to any Government Agency.

15. Conflict of Interest

The Supplier warrants that, except as notified to CSC prior to the date of the Contract, no conflict of interest relevant to the performance of its obligations under the Contract exists, or is anticipated. If a conflict of that kind arises, the Supplier must notify CSC immediately. CSC may decide in its absolute discretion, without limiting its other rights under the Contract, that the Supplier may continue to provide the Goods and/or Services under the Contract.

16. Anti-bribery and Corruption

The Supplier must not, in connection with the provision of Goods and/or Services, directly or indirectly make, promise, authorise, or offer any payment or transfer anything of value for the purpose of influencing, inducing or rewarding any act, omission or decision to secure an improper advantage, or in any way with the purpose or effect of public or commercial bribery.

17. Compliance with Modern Slavery

The Supplier must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Goods and/or Services.

The Supplier must provide all reasonable assistance to CSC to satisfy the reporting obligations of CSC including completing and submitting an annual supplier questionnaire.

If at any time the Supplier becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of the Contract, the Supplier must:

- (a) immediately and not later than 48 hours, notify CSC of the Modern Slavery practices and provide any relevant information requested by CSC; and
- (b) take all reasonable action to address or remove these practices, including, where relevant, by addressing any practices of other entities in its supply chains.

18. Records

The Supplier must maintain proper business and accounting records relating to the supply of the Goods and/or Services. The Supplier will provide any reasonable assistance and information required should the Australian National Audit Office or any other Government Agency wish to conduct an audit of the Supplier's accounts and records.

19. Notices

Any notice or communication under the Contract will be effective if it is in writing, from one Contract Manager, and delivered to the other Contract Manager, at the postal address, or email address, or facsimile number set out in the Purchase Order.

A Notice is deemed to be effected:

- (a) if delivered by hand - upon delivery to the relevant address;
- (b) if sent by registered post - upon delivery to the relevant address; or
- (c) if transmitted electronically:
 - (i) upon actual delivery as evidenced by an acknowledgement of receipt from

the recipient's system by any means (including by means of delivery receipt); or

- (ii) 24 hours after the email was sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered or received, whichever happens first.

A notice received after 5.00 pm, or on a day that is not a working day in the place of receipt, is deemed to be effected on the next working day in that place.

20. Assignment and Subcontracting

The Supplier must not assign its rights under this Contract or subcontract any part of the performance of this Contract without the prior written consent of CSC.

21. Termination for Breach or Insolvency

CSC may by written notice to the Supplier terminate the Contract if:

- (a) the Supplier does not supply all of the Goods and/or Services by the relevant date(s);
- (b) the Supplier notifies CSC that it will be unable to supply the Goods and/or Services by the relevant date(s);
- (c) CSC rejects any of the Goods and/or Services in accordance with clause 4;
- (d) the Supplier breaches the Contract and the breach is not capable of remedy;
- (e) the Supplier breaches the Contract and does not remedy the breach within the period specified by CSC in a notice of default issued to the Supplier; or
- (f) subject to CSC complying with any applicable requirements in the *Corporations Act 2001* (Cth), if the Supplier:
 - (i) is unable to pay all its debts when they become due;
 - (ii) if incorporated – has a liquidator, administrator or equivalent appointment under legislation other than the *Corporations Act 2001* (Cth) appointed to it; or
 - (iii) if an individual – becomes bankrupt or enters into an arrangement under Part

IX or Part X of the *Bankruptcy Act 1966* (Cth).

22. Termination or Reduction for Convenience

In addition to any other rights it has under the Contract, CSC, acting in good faith, may at any time terminate the Contract or reduce the scope or quantity of the Goods and/or Services by notifying the Supplier in writing.

If CSC issues such a notice, the Supplier must:

- (a) stop or reduce work in accordance with the notice;
- (b) comply with any directions given by CSC; and
- (c) take reasonable steps to mitigate all loss, costs (including the costs of its compliance with any directions) and expenses in connection with the termination or reduction in scope.

Where the Contract is terminated under this clause 0, CSC will only be liable for payments to the Supplier for:

- (a) Goods and/or Services accepted in accordance with clause 4, before the effective date of termination (to a maximum of the Contract Price less any payments already made), and
- (b) any reasonable costs incurred by the Supplier that are directly attributable to the termination or reduction in scope, if the Supplier substantiates these amounts to the satisfaction of CSC.

The aggregate of any costs and any amounts paid or due to the Supplier under the Contract will not exceed the Contract Price payable under the Contract. The Supplier will not be entitled to profit anticipated on any part of the Contract that is terminated or subject to a reduction in scope.

23. Dispute Resolution

For any dispute arising under the Contract:

- (a) the Contract Manager claiming that there is a dispute will give the other Contract Manager a notice setting out the details of the dispute;
- (b) both Contract Managers will try to settle the dispute by direct negotiation;

- (c) if the dispute remains unresolved after 5 business days, each Contract Manager will nominate a senior representative not having prior direct involvement in the dispute to resolve the dispute;
- (d) the senior representatives will try to settle the dispute by direct negotiation; and
- (e) failing settlement within a further 10 business days, either CSC or the Supplier may commence legal proceedings.

CSC and the Supplier will each bear its own costs for the dispute resolution.

Despite the existence of a dispute, the Supplier will (unless requested in writing by CSC not to do so) continue its performance under the Contract. The procedure for dispute resolution does not apply to action relating to termination or to legal proceedings for urgent interlocutory relief.

24. Announcements and Publications

The Supplier must not:

- (a) make any public announcement about the Contract;
- (b) use or publish the name and logo of CSC for any purpose; or
- (c) identify CSC as a client of the Supplier or otherwise refer to CSC, including on the Provider's website or in any marketing materials,

without the prior written consent of CSC.

CSC may disclose or publish information about the Contract or Supplier as required by law or in order to meet legal or regulatory requirements.

25. Governing Law and Jurisdiction

This Contract will be governed by and construed in accordance with the law for the time being in force in the Australian Capital Territory. The parties irrevocably agree to submit to the exclusive jurisdiction of the courts of the Australian Capital Territory.

26. Waiver

If a party does not exercise (or delays in exercising) any of its rights, that failure or delay does not operate as a waiver of those rights.

27. Relationship of the Parties

The Supplier must not represent itself, and must ensure that its officers, employees, agents or subcontractors do not represent themselves, as being an officer, employee, partner or agent of CSC, or as otherwise able to bind or represent CSC. The Contract does not create a relationship of employment, agency or partnership between the parties.

28. Entire Agreement

The Contract represents CSC's and the Supplier's entire agreement and understanding in relation to the supply of Goods and/or Services and supersedes all tendered offers, prior representations, communications, agreements, statements and understandings, whether oral or in writing.

29. Survival

Clauses 8 (Indemnity), 11 (Intellectual Property Rights), 13 (Privacy), 14 (Confidential Information) and 18 (Records) survives the termination and expiry of the Contract.

30. Definitions and Interpretations

In the Contract:

Acceptance Period means 14 days after delivery of the Goods and/or Services to CSC.

Additional Terms means any additional terms and conditions agreed between CSC and the Supplier as specified in the Purchase Order.

Contract means the agreement between CSC and Supplier comprising of the documentation specified in clause 1.

Contract Manager means the contract manager for CSC and the Supplier as specified in the Purchase Order.

Contract Price means the total price for the Goods and/or Services as specified in the Purchase Order.

Correctly Rendered Invoice means an invoice that:

- (a) is correctly addressed and calculated in accordance with the Purchase Order;
- (b) relates only to Goods and/or Services that have been accepted by CSC under clause 4;
- (c) is for an amount which, together with all previously Correctly Rendered Invoices, does not exceed the Contract Price;
- (d) includes the Purchase Order number, and the name and phone number of the Contract Manager named in the Purchase Order;
- (e) includes all supporting documentation and other evidence reasonably required by CSC to substantiate performance of the Contract by the Supplier; and
- (f) is a valid tax invoice in accordance with the GST Act.

CSC means Commonwealth Superannuation Corporation (ABN 48 882 817 243).

Encumbrance means a security interest as defined in section 12 of the *Personal Property Securities Act 2009* (Cth).

Goods means the goods, items, materials or parts to be supplied by the Supplier as specified in the Purchase Order.

Government Agency means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity.

GST means goods and services tax imposed by the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Intellectual Property Rights means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are registered or capable of being registered.

Modern Slavery has the same meaning as it has in the Modern Slavery Act 2018 (Cth).

Purchase Order means the purchase order, issued by CSC to purchase Goods and/or Services on behalf of CSC, into which this General Purchase Order Conditions are incorporated.

Services means the services to be performed by the Supplier as specified in the Purchase Order.

Supplier means the persons or entity specified in the Purchase Order who is supplying the Goods and/or Services to CSC.

In this Contract, unless the context otherwise requires:

- (a) words importing one gender include any other gender, and words importing the singular include the plural and vice versa;
- (b) reference to a person includes a body politic, a body corporate and a natural person; and
- (c) headings are for guidance only and do not affect the interpretation of the clauses they refer to.