

1. General

- a) These terms apply to all purchase orders ("Orders") for goods and or services (goods/services) placed by The Crown in right of the State of New South Wales, acting through the Office of Sport ("the Office"), including Venues NSW as an Agency in its own right, to a supplier (Supplier) and are in addition to any terms and/or conditions specified in an individual Order.
- b) No other terms or conditions or any variations apply to an Order by the Office unless the Office has agreed in writing to them.
- c) The Supplier agrees to provide the Office with access to any records or information in relation to any Orders for goods and services with the Supplier as reasonably required from time to time.
- d) If there is any inconsistency among any documents that form the Order, the following order of priority will apply so that the higher ranked document will prevail to the extent of the inconsistency:
 - i) the statement of requirements set out in the Office's Request for Proposal (RFP), Request for Quote (RFQ) or Request for Tender (RFT) document (if any);
 - ii) these Order Form terms;
 - iii) the terms specified in the individual Order;
 - iv) any quote or response to the Office's RFP, RFQ or RFT provided by the Supplier (if any); then
 - v) any other document.

2. The agreement

- a) Supply of goods/services pursuant to an Order shall constitute acceptance of the terms of this agreement.
- b) The Supplier may not transfer this agreement without the prior written consent of the Office.
- c) The laws of New South Wales govern this agreement.

3. Waiver

A waiver of a breach of a term of this agreement shall not be taken to be a waiver in respect of any other breach. The failure of either party to enforce a term of this agreement will not be interpreted as a waiver of that term.

4. Price

All prices quoted in an Order are fixed and inclusive of all taxes, including GST, insurance, freight and delivery costs including costs associated with the return of goods wrongly supplied or defective goods.

5. Warranties

- a) In relation to goods supplied under this agreement, the Supplier warrants that at the time ownership of the goods passes to the Office, they will be free from any charge or liability, the goods comply with all laws and applicable standards, are free from defects and fit for purpose and conform to the description of the goods purchased.
- b) Where the goods have been procured from third parties, the Supplier agrees to do all things to assign to the Office the benefits of any warranties given by the third parties in addition to warranties offered by the Supplier under this agreement.
- c) In relation to services supplied under this agreement, the Supplier warrants that the services do not infringe the intellectual property rights of any third party and agrees to indemnify the Office in the event that any third party makes a claim on the Office in relation to any infringement of intellectual property rights by the Supplier; the Supplier and all personnel engaged to supply the services will provide the services with due care and skill, and are appropriately qualified, competent and experienced and hold all necessary licenses, permits and authorities.

6. Delivery

- a) Title to the goods/services vests in the Office upon acceptance and acceptance of the goods/services by the Office is subject to satisfactory inspection on delivery. The Supplier assumes all risk in the goods/services until the Office accepts them.
- b) The Supplier must supply the goods/services on the date, time and place specified by the Office and time is of the essence.
- c) The Supplier must comply with the reasonable directions of the Office in relation to the delivery of the goods and services.
- d) The Supplier must ensure that all invoices, packing slips and other documents have an Order number, description and quantity of the goods and the name of the Office representative. The goods must be packed for safe delivery to the Office. The Office will not accept the goods or pay for the goods unless the Order number is included in the documents issued by the Supplier.
- e) Goods/services that do not comply in every respect with the description, specification and any samples submitted with the Order will not be accepted and the cost of storing, handling and returning any goods not accepted shall be borne by the Supplier.

7. Defective Goods or Services

- a) The Supplier, at its own cost, shall remedy any defect in supplied goods/services that have been notified to it by the Office but if it fails to do so within 30 days of being so notified, the Office may:
 - (i) arrange for the remedial work by a third party at the Supplier's expense; (ii) in relation to goods, return the goods to the Supplier at the Supplier's expense and immediately be entitled to a full refund of the price of those goods; or (iii) in relation to services, notify the Supplier that it rejects the services in which case the Office will immediately be entitled to a full refund of the price of those services.
- b) The rights and remedies under this clause are in addition to, and do not limit, any other rights of the Office at law.

8. Payment

If the Supplier has supplied the goods/services in accordance with the Order, the Office has accepted the goods/services and the Supplier has issued a valid tax invoice substantiated by an itemised account and any further details reasonably requested by the Office, payment will be made within 30 days after receipt of that invoice or within such time as has been agreed in writing by the Office.

9. Insurances

The Supplier must hold appropriate insurance including workers compensation and public liability insurance (and where specified by the Office, product liability and professional indemnity insurance) to cover the risk for the goods/services supplied and provide documentary evidence thereof to the Office on demand.

10. Compliance with legislation

The Supplier shall identify applicable legislation to the supply of the goods and services and comply with the requirements of all such applicable legislation.

11. Indemnity

The Supplier shall indemnify the Office, its employees and agents and the State of NSW against any claim, loss or expense (including a claim, loss or expense arising out of personal injury or death or damage to property) which any of them pays, suffers, incurs or is liable for (including legal costs on a solicitor client basis) arising out of any unlawful, negligent, reckless or deliberately wrongful act or omission of the Supplier in the performance of this agreement or any breach of this agreement.

12. Termination

The Office may terminate this agreement:

- a) If the Supplier becomes bankrupt, insolvent or commits a substantial breach of this agreement in a manner that is capable of remedy immediately; or
- b) The Supplier commits a breach capable of remedy and does not remedy the breach within 7 days of giving notice requiring it to do so from the Office; or
- c) Without cause, by giving written notice to the Supplier, in which case the Supplier shall stop supplying the goods or services under the agreement and take steps to mitigate losses and the Office shall reimburse the Supplier its unavoidable costs directly incurred as a result of termination provided that any such claim is supported by written evidence of the costs claimed and will be in total satisfaction of the liability of the Office to the Supplier in respect of this agreement and its termination.
- d) The Office shall not in any circumstances be liable for any consequential loss or loss of profits suffered by the Supplier as a result of the termination of this agreement by the Office.

13. Relationship

The supply of goods/services pursuant to an Order does not create a relationship of partnership, employment, principal and agent, or of trustee and beneficiary.

14. Publicity

The Supplier must not disclose, distribute or otherwise communicate any media release, promotional material or publicity about or in relation to this agreement, their relationship or otherwise refer to the Supplier (including use its logo) without its prior written approval.