

SYDNEY FERRIES

TERMS AND CONDITIONS OF PURCHASE ORDER

1. General

- a. These terms and conditions apply to all purchase orders (**Orders**) for goods and or services (goods/services) placed by Sydney Ferries (**SF**) with a supplier (**Supplier**) and are in addition to any terms and/or conditions specified by SF in an individual Order (**Special Conditions**).
- b. Supply of goods/services by a Supplier pursuant to an Order shall constitute acceptance of these terms and conditions.
- c. No other terms or conditions or any variations apply to an Order unless SF has agreed in writing to them.
- d. This agreement is not assignable by the Supplier without the prior written consent of SF.

2. Price

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

3. Warranties

- a. Where the goods have been procured from third parties, the Supplier assigns to SF the benefits of any warranties given by the third parties in addition to warranties offered by the Supplier under this agreement.
- b. 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; the supplier and all personnel engaged to supply the services are appropriately qualified, competent and experienced and hold all necessary licenses, permits and authorities.

4. Title and Risk

- a. Title to the goods/services vests in SF upon acceptance in accordance with clause 5 (c). Risk in the goods/services remains with the Supplier until acceptance occurs.
- b. The Supplier warrants that at the time ownership of the goods passes to SF, the goods will be free from any charge or liability, the goods comply with all applicable standards, are free from defects and conform to the description of the goods purchased.

5. Delivery

- a. The Supplier must supply the goods/services on the date, time and place specified by SF in an Order and time is of the essence.
- b. 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 SF representative. The goods must be packed for safe delivery to SF, SF will not accept the goods or pay for the goods unless the Order number is included in the documents issued by the Supplier.
- c. Subject to clause 5(d) and without limiting clause 6, acceptance of the goods/services is deemed to occur within 72 hours of delivery unless a Special Condition applies to the relevant Order.
- d. Goods/services that do not comply in every respect with the description, specification or 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.

6. Defective Goods

- a. The Supplier, at its own cost, shall remedy any defect in supplied goods/services that have been notified to it by SF but if it fails to do so within 30 days of being so notified, SF may arrange for the remedial work by a third party at the Supplier's expense; or 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.
- b. The rights and remedies under this clause are in addition to, and do not limit, any other rights of SF at law.

7. Payment

- a. If the Supplier has supplied the goods/services in accordance with the Order, SF 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 SF, payment will be made by the end of the month following the month in which an invoice is received or within such time as has been agreed in writing by SF.
- b. Invoices not containing an Order number will be returned unpaid to the Supplier.
- c. Complaints about late payments by SF may be made to the Accounts Payable Officer on ph: (02) 9246 8300.

8. Insurances

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

9. Compliance with legislation

The Supplier shall comply with the requirements of any legislation including Occupational Health and Safety legislation.

10. Government Information (Public Access) Act 2009 (s. 121) (applies where total value of an Order is over \$150,000)

- a. The Supplier must, within 7 days of receiving a written request by SF, provide SF with immediate access to the following information contained in records held by the Supplier:
 - (i) information that relates directly to the performance of the services provided to SF by the Supplier under an Order;
 - (ii) information collected by the Supplier from members of the public to whom it provides, or offers to provide, the good/services pursuant to an Order; and
 - (iii) information received by the Supplier from SF to enable it to provide the goods/services pursuant to an Order.
- b. For the purposes of this clause 10, information does not include:
 - (i) information that discloses or would tend to disclose the Supplier's financing arrangements, financial modelling, cost structure or profit margin;
 - (ii) information that the Supplier is prohibited from disclosing to SF by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth; or
 - (iii) information that, if disclosed to SF, could reasonably be expected to place the Supplier at a substantial commercial disadvantage in relation to SF, whether at present or in the future.
- c. The Supplier will provide copies of any of the information in sub-clause 10 (a), as requested by SF, at the Supplier's own expense.
- d. Any failure by the Supplier to comply with any request pursuant to sub-clause 10 (a) or (c) may be considered a breach of an essential term and may allow SF to terminate a purchase order by providing notice in writing of its intention to do so with the termination to take effect seven (7) days after receipt of the

notice. Once the Supplier receives the notice, if it fails to remedy the breach within the seven (7) day period to the satisfaction of SF, then the termination will take effect seven (7) days after receipt of the notice unless the breach is remedied.

11. Indemnity

The Supplier shall Indemnify SF, 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. Waiver

No breach of this agreement by the Supplier shall be waived unless waived in writing by an authorised delegate of SF.

13. Termination

SF 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 and does not remedy the breach within 7 days of giving notice requiring it to do so from SF; or
- b. 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 SF 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 SF to the Supplier in respect of this agreement and its termination.
- c. SF 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 SF.

14. Governing Law

The laws of New South Wales govern this agreement.

End of Terms and Conditions