

Purchase Order – Terms and Conditions

State Archives and Records Authority of NSW/Sydney Living Museums

1. General

1.1 The Terms and Conditions of this General Purchase Agreement (Agreement) apply to all purchase orders (Orders) for goods (Goods) and/or services (Services) placed by State Archives and Records Authority of NSW (SARA) and Sydney Living Museums (SLM) of New South Wales with a supplier (Supplier) and are in addition to any terms and/or conditions specified in an individual Order.

1.2 Where an Order is issued, the terms of this Agreement will be in addition to the terms of a Contract between SARA/SLM and the Supplier (Supplier Contract). In the event of any inconsistency between an Order and a Supplier Contract, the Supplier Contract will take precedence and prevail to the extent of the inconsistency.

1.3 No other Terms or Conditions or any amendments apply to an Order by SARA/SLM unless approved in writing by a representative of SARA/SLM with actual delegated authority to approve such amendments.

2. The Agreement

2.1 Supply of Goods/Services described in the Order constitutes acceptance of the Terms and Conditions of this Agreement.

2.2 The Supplier may not transfer this Agreement without the prior written consent of SARA/SLM.

2.3 The laws of New South Wales govern this Agreement.

3. Waiver

3.1 A waiver of a breach of a term of this Agreement is not be taken as a waiver in respect of any other breach. The failure of either party to enforce any Term or Condition of this Agreement will not be interpreted as a waiver of that Term or Condition.

4. Price

4.1 All prices quoted in an Order are fixed and inclusive of all taxes, including Goods and Services Tax payable under A New tax System (Goods and Services Tax) Act 1999 (GST), insurance, freight and delivery costs including costs associated with the return of Goods wrongly supplied or defective Goods.

5. Warranties

5.1 In relation to Goods supplied under this Agreement, the Supplier warrants that at the time ownership of the Goods passes to SARA/SLM, they are free from any charge or liability, the Goods comply with all applicable standards, are free from defects, fit for purpose and conform to the description of the Goods purchased.

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5.2 Where the Goods have been procured from third parties, the Supplier agrees to do all things to assign to SARA/SLM the benefits of any warranties given by the third parties in addition to warranties offered by the Supplier under this Agreement.

5.3 In relation to Services supplied under this Agreement, the Supplier warrants that;

a) the Services do not infringe the intellectual property rights of any third party and agrees to indemnify SARA/SLM in the event that any third party makes a claim on SARA/SLM in relation to any infringement of intellectual property rights by the Supplier;

b) the Supplier and all personnel engaged to supply the Services are appropriately qualified, competent and experienced and hold all necessary licenses, permits and authorities.

6. Delivery

6.1 Title to the Goods/Services vests in SARA/SLM upon acceptance.

6.2 The acceptance of the Goods/Services by SARA/SLM is subject to satisfactory inspection on delivery. The Supplier assumes all risk in the Goods/Services until SARA/SLM accepts them.

6.3 The Supplier must supply the Goods/Services on the date, time and place specified by SARA/SLM and time is of the essence.

6.4 The Supplier must ensure that all invoices, packing slips and other documents have the Order number, description and quantity of the Goods, the name of the SARA/SLM representative. The Goods must be packed for safe delivery and SARA/SLM not obliged to accept the Goods or pay for the Goods/Services unless the Order number is included in the documents issued by the Supplier.

6.5 Goods/Services that do not comply in every respect with the Order: the description, specification and/or any samples submitted will not be accepted. In relation to any Goods not accepted by SARA/SLM, all costs associated with storing, handling and returning to be borne by the Supplier.

7. Defective Goods

7.1 When notified by SARA/SLM, the Supplier at its own cost, must remedy any defect in supplied Goods/Services within 30 days of being notified. If the Supplier fails to do so, SARA/SLM may arrange for the remedial work by a third party or return the goods to the Supplier at the Supplier's expense and SARA/SLM will be immediately entitled to a full refund of the price of those Goods/Services.

7.2 These rights and remedies are in addition to, and do not limit any other rights of SARA/SLM at law.

8. Payment

8.1 If the Supplier has supplied the Goods/Services in accordance with the Order, SARA/SLM has accepted the Goods/Services and the Supplier has issued a valid tax invoice substantiated

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by an itemised account and any further details reasonably requested, SARA/SLM agrees to pay to the Supplier payment specified in the Order.

8.2 Unless otherwise specified in the Order, SARA/SLM agrees to pay the payment within 30 calendar days of receipt and acceptance of that invoice by SARA/SLM.

8.3 SARA/SLM may withhold any disputed portion of the payment until the dispute is resolved.

8.4 All payment enquires are to be directed to:

a) accounts@records.nsw.gov.au for Orders issued by SARA.

b) finance@slm.com.au for Orders issued by SLM.

9. Insurances

9.1 The Supplier must hold appropriate insurance including workers compensation and public liability insurance (and where specified by SARA/SLM, product liability and professional indemnity insurance) to cover the risk associated with Goods/Services supplied and on demand provide documentary evidence to SARA/SLM.

10. Compliance

10.1 The Supplier must identify applicable legislation to the supply of Goods/Services and comply with the requirements of all such applicable legislation.

10.2 The Supplier must comply with any instructions, advice and/or management plans issued by representatives of SARA/SLM in relation to the Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013 when supplying Goods/Services (including materials) or undertaking works (maintenance, repair involving restoration, repair involving reconstruction) to places of cultural significance.

11. Indemnity

11.1 The Supplier will indemnify SARA/SLM, 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 or by breach of this Agreement.

12. Termination

SARA/SLM may terminate this agreement:

12.1 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 written notice to the Supplier by SARA/SLM; or

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12.2 Without cause, by giving written notice to the Supplier. Having being notified the Supplier must stop supplying Goods/Services and take necessary steps to mitigate losses. In respect of termination under this clause, SARA/SLM will reimburse the Supplier its unavoidable direct costs incurred as a result, provided the claim is supported by written evidence to the total satisfaction of the liability of SARA/SLM to the Supplier.

12.3 Under any circumstances, SARA/SLM will not be liable for any consequential loss or loss of profits suffered by the Supplier as a result of the termination of this Agreement.