



Australian Government

Department of Families, Housing, Community Services and Indigenous Affairs

Families, Housing, Community Services and Indigenous Affairs (FaHCSIA)

Standard Terms and Conditions for Purchase Orders

1 These are the terms and conditions referred to in the Purchase Order (**'Purchase Order'**).

Interpretation:

2 When conditions apply

- 2.1 These Standard Terms and Conditions apply to any contract that the Department of Families, Housing, Community Services and Indigenous Affairs ('FaHCSIA') enters into by issuing a Purchase Order to the nominated supplier ('the Supplier'), whether as an offer or acceptance of an offer ('the Contract') and replaces all other communications.
- 2.2 Subject to 2.1 these Standard Terms and Conditions will prevail if there is any conflict between them and the terms of any offer or acceptance by the Supplier.
- 2.3 "Supplies" means any goods/services, as the context requires.
- 2.4 The Contract conditions include any special conditions referred to in the Purchase Order and, if any such special conditions are inconsistent with these Standard Terms and Conditions, the former will, to the extent of the inconsistency, prevail.
- 2.5 In these Standard Terms and Conditions 'manufacture' includes grow, extract, produce, process and assemble.

3 Packaging

- 3.1 The Supplies must be packed with the type, quantity and quality of packaging material necessary to ensure their safe delivery. Environmentally friendly packaging material must be used where practicable.

4 Delivery Details

- 4.1 Subject to 4.2, delivery of the Supplies must be made with due care and skill at the place, on the date, and in the manner specified in the Purchase Order.
- 4.2 FaHCSIA can specify, in writing, a later date for delivery.
- 4.3 The Supplier will be liable for any cost variation due to failure to comply with the advised transport mode.
- 4.4 Receipt of the Supplies does not constitute acceptance of the Supplies by FaHCSIA.

5 Quality

5.1 Supplies must be:

- (a) free from any defects in material and workmanship;
- (b) of merchantable quality;
- (c) fit for purpose; and
- (d) conform with all relevant standards.

Rejection of Supplies

5.2 FaHCSIA can inspect the Supplies at any time prior to acceptance and reject any Supplies that are not in accordance with the Contract.

Latent defects

5.3 After acceptance FaHCSIA can reject Supplies for any non-conformity with the Contract, which could not have been discovered by reasonable inspection prior to acceptance.

No payment for rejected Supplies or for damage

5.4 FaHCSIA will not be liable for any rejected Supplies or for any damage done to or costs arising from inspection or rejection of the Supplies.

Replacement, refund or repair

5.5 If FaHCSIA rejects any Supplies, the Supplier must, without prejudice to FaHCSIA's rights otherwise arising under the Contract or the general law, comply with a requirement of FaHCSIA to:

- (a) Replace, without cost to FaHCSIA, the rejected Supplies with Supplies in all respects in accordance with the Contract;
- (b) refund any payment for the rejected Supplies; or
- (c) repair the goods, on site or otherwise to the satisfaction of FaHCSIA, and, in the case of (a) or (b), must remove the rejected Supplies, at the Supplier's expense, if the Supplies are goods.

Inspecting manufacture of goods

5.6 Without additional cost to FaHCSIA, the Supplier must provide access to premises and all other necessary assistance for FaHCSIA representatives to inspect the manufacturing of the Supplies.

Approval of samples

5.7 If FaHCSIA requires the Supplier to submit samples of Supplies the Supplier must not proceed to bulk manufacture until FaHCSIA has approved the samples.

6 Passing of Property

6.1 Property in, and risk of loss of or damage to, the Supplies passes to FaHCSIA on acceptance by FaHCSIA.

7 Warranty

Correction

- 7.1 If FaHCSIA gives prompt notice of any defect or omission discovered in the Supplies during any warranty period, the Supplier must correct that defect or omission without delay and at no cost to FaHCSIA.

Cost of warranty

- 7.2 The Supplier must meet all costs of and incidental to the discharge or warranty obligations including any packaging, freight, disassembly and reassembly costs.

8 Inclusive Price

- 8.1 All taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of the Purchase Order shall be borne by the Supplier.
- 8.2 The amounts payable to the Supplier under this Contract include an amount to cover any liability of the Supplier for Goods and Services Tax (GST) on any taxable supplies as determined under A New Tax System (Goods and Services Tax) Act 1999 (the GST Act).
- 8.3 The Supplier agrees to ensure that the benefit of any reduction in or removal of taxes, duties or charges, which impact on the costs to the Supplier, is passed onto FaHCSIA.
- 8.4 If a reduction to the amount payable is made under sub-clause 8.3 the reduced amount will be effective from the date that the benefit of any reduction in or removal of taxes, duties or charges accrues to the Supplier.
- 8.5 If required to do so by FaHCSIA at any time, the Supplier shall substantiate, to FaHCSIA's reasonable satisfaction, how any reduction in the amounts payable by the FaHCSIA under this Clause 8 has been calculated.
- 8.6 The Supplier agrees to issue FaHCSIA with a tax invoice in accordance with the GST Act in relation to taxable supplies.

9 Indemnity

- 9.1 The Supplier indemnifies FaHCSIA against all loss, damage or expense arising in respect of any action or claim for alleged infringement of any patent, copyright, registered design, trade mark or any other intellectual property rights, by reason of the purchase, possession or use of the Supplies.

10 Assignment

- 10.1 The Supplier must not, without consent in writing from FaHCSIA, assign the Supplier's rights or obligations under the Contract.

11 Subcontractors

Consent required

11.1 The Supplier must not, without consent in writing from FaHCSIA, subcontract the whole or any part of the work of manufacture or supply of the goods.

Liability of subcontractors

11.2 The Supplier will be liable to FaHCSIA for the acts and omissions of any subcontractor as if those were the acts or omissions of the Supplier.

12 Applicable Law

12.1 The Contract will be governed by and construed in accordance with the law in force in the Australian Capital Territory.

13 Payment

Due 30 days

13.1 Subject to 5.4, FaHCSIA must pay for the Supplies no later than 30 days after property of the Supplies has passed to it and a correctly rendered invoice has been received;

Invoices

13.2 An invoice will be correctly rendered if it:

- (a) is addressed in accordance with the Purchase Order;
- (b) identifies the Purchase Order number;
- (c) is a Tax Invoice for GST purposes; and
- (d) is, where explanation is necessary, accompanied by documentation substantiating the amount claimed.

14 Termination

Special events

14.1 If the Supplier:

- (a) fails to deliver the Supplies by the date required by the Contract;
- (b) is in breach of any other material term of the Contract;
- (c) being an individual, commits an act of bankruptcy, becomes a bankrupt, executes a deed of assignment under Part 10 of the Bankruptcy Act 1966 as amended or a creditor accepts a composition under the Act or any analogous overseas law; or
- (d) being a corporation (other than for the purpose of reconstruction or amalgamation)
 - (i) is the subject of a compromise or arrangement with its creditors;
 - (ii) in respect of property which a receiver or a receiver and manager is appointed; or
 - (iii) in respect of which a provisional liquidator, liquidator or other administrator is appointed;

FaHCSIA can, without prejudice to any other rights and remedies it has under the Contract or otherwise, terminate the Contract in whole or in part by notice in writing to the Supplier.

14.2 On such a termination FaHCSIA can:

- (a) cease payments under the Contract;
- (b) recover from the Supplier all sums paid for undelivered Supplies; and
- (c) purchase similar Supplies from alternative suppliers and claim by way of indemnity from the Supplier any loss it may incur in doing so.

15 Compliance with Government Policies

15.1 The Supplier shall:

- in its dealings with its employees, have due regard to Commonwealth policies on employment including equal employment opportunity, access and equity, affirmative action, occupational health and safety, and workplace diversity;.
- use best endeavours to provide employment opportunities to Aboriginal and Torres Strait Islander people. The Supplier shall not contract out of this obligation;
- not enter into a subcontract under this Contract with a subcontractor named by the Director of the Equal Opportunity for Women in the Workplace Agency (EOWA) as an employer currently not complying with the Equal Opportunity for Women in the Workplace Act, 1999; and
- comply with its obligations, if any, under the Disability Discrimination Act, 1992. Information about the Commonwealth Disability Strategy can be obtained from the Department of Families, Housing and Community Services web site at <http://www.fahcsia.gov.au/>.

15.2 The Supplier's attention is drawn to the obligations of relevant employers under the Equal Opportunity for Women in the Workplace Act, 1999. Enquiries for further information about the legislation should be directed to the Equal Opportunity for Women in the Workplace Agency (<http://www.eowa.gov.au>).