

**OUR PURPOSE**  
**GREAT CARE, EVERY PERSON, EVERY TIME**

**OUR VALUES**



**TOTAL CARE**

Delivering care that is safe, effective and person-centred, always.



**SAFETY**

Providing a safe workplace and services free from avoidable harm.



**UNITY**

Working well together in a great place to work.



**ACCOUNTABILITY**

Doing the right thing by our stakeholders and ourselves.



**INNOVATION**

Using our imagination - if there's a better way we will find it.

**Purpose**

To specify the Terms and Conditions for the Supply of Goods and/or Services to West Wimmera Health Service (WWHS, The Service)

**Target Audience**

Suppliers and contractors engaging in business, or the supply of goods and services to the Service

**Terms and Conditions for the Supply of goods and services to West Wimmera Health Service**

**1. APPLICATION OF TERMS AND CONDITIONS**

These terms and conditions apply to all goods and/or services supplied to West Wimmera Health Service (WWHS). The Supplier is deemed to have accepted these terms and conditions when the Supplier accepts an order from WWHS to supply goods and/or services to WWHS.

Wherever the word “goods” appears below it means “goods and/or services” where applicable.

**2. TITLE AND RISK**

Title and any risk relating to any goods ordered pursuant to this document will pass to the Service after the goods have been accepted by the Service.

**3. INSPECTION AND REJECTION**

If the Goods conform with authorised WWHS purchase orders, WWHS will only accept the delivered Goods once they have been inspected by an authorised representative of the Service. If WWHS does not give written notification of acceptance or rejection of the Goods within 10 business days of delivery, acceptance of the Goods will be deemed to have occurred on the date of delivery.

(a) If the Goods:

- i. do not conform with this Order; or
- ii. on delivery are damaged, unfit for purpose or not of merchantable quality,



WWHS may reject the Goods by giving written notice (including reasons for rejection) to the Supplier within 7 days of delivery. WWHS is not obliged to pay for any rejected Goods.

(b) The Supplier must, at its cost, collect and remove any rejected Goods as soon as practicable following notification. If the Supplier fails to collect and remove the rejected Goods within a reasonable time but not more than 7 days after notification in accordance with clause 4(b), the Purchaser may return the Goods to the Supplier at the Supplier's expense, or, following further notification, destroy the Goods or otherwise dispose of the Goods in its absolute discretion.

#### 4. DELIVERY

Deliveries must be made as specified by the Service and the Service will not be required to accept or pay for quantities in excess of those ordered. The Service accepts no responsibility for any goods delivered to locations or at times other than those it specifies. Deliveries must be made to the Service's main warehouse, Nhill Hospital, Ryan Lane, Nhill, Victoria or to places as otherwise designated during the hours 8.30am-4.00pm, Monday to Friday.

Unless otherwise agreed in writing, all costs of delivery must be borne and paid by the Supplier. The Supplier must also bear the costs of insuring the goods under a goods in transit policy with a reputable insurer authorised under the Insurance Act 1973 (Cth).

All goods delivered must be accompanied by an invoice and delivery docket detailing the correct official Purchase Order number, and/or an advance shipping notice (if requested by the Purchaser) the description and quantity of Goods, and any other information required by the Purchaser.

#### 5. DRAWINGS & INTELLECTUAL PROPERTY RIGHTS

Physical and intellectual property rights in all drawings, specifications and data provided to the Supplier will continue to be owned by the Service and must not be disclosed or used except as allowed by the Service. Upon the completion or other termination of an order the Supplier must return all such drawings, specifications and data together with any copies and must not make any further use (either directly or indirectly) of any information from those items without the Service's prior written consent. In particular, all art work together with blocks and/or plates which have been prepared in connection with the supply of stationery and/or printed matter are the property of the Service and must be delivered to the Service, at the time specified by the Service. The Supplier irrevocably and unconditionally grants to the Purchaser a non exclusive, perpetual, royalty free, worldwide and transferable licence (including the right to sub-license) to use any Intellectual Property Rights in relation to any Goods supplied to the extent necessary to allow the Purchaser the full use and enjoyment of those Goods and the Supplier must, upon request by the Purchaser, do all things as may be necessary (including executing any documents) to give full effect to such rights.



## 6. CANCELLATION

WWHS may terminate any order with immediate effect (or with effect from a specified date) by

- (a) giving notice in writing to the Supplier if the Supplier:
  - (i) fails to provide the Goods in accordance with the Order;
  - (ii) breaches any provision of the order and, where that breach is capable of remedy, fails to remedy the breach within 10 Business Days after receiving written notice requiring it to do so (or such later date as may be specified in that notice);
  - (iii) breaches any provision of the order that is not capable of remedy;
  - (iv) or any of its Personnel involved in the supply of the Goods commits fraud, dishonesty or any other serious misconduct;
  - (v) commits any act or does anything that may be prejudicial or otherwise detrimental to the reputation of the State; or
  - (vi) suffers from an Insolvency Event.
- (b) If the order is terminated, the Purchaser will pay the Supplier:
  - (i) for the Goods delivered in accordance with the Order up to the date of the termination; and
  - (ii) the unavoidable and substantiated costs incurred by the Supplier as a direct result of the termination, excluding any loss of profit,
  - (iii) and the Purchaser has no other liability to the Supplier in relation to that termination.
- (c) When the Purchaser issues a notice under clause 5(a), the Supplier will immediately comply with any directions given in the notice and do all that is possible to mitigate its losses arising from the termination of the Order.
- (d) The Supplier may terminate the Order if the Purchaser fails to remedy, to the satisfaction of the Supplier, any breach of this Order (which in the reasonable opinion of the Supplier is able to be remedied) within 14 days after the date on which the Supplier issues the Purchaser a written notice requiring the Purchaser to remedy the breach.
- (e) Termination or expiry of this Order will not prejudice any right of action or remedy which may have accrued to either party prior to termination or expiry.
- (f) On termination or expiry the Supplier must immediately, following instructions by the Purchaser, cease using all materials that contain any data or Confidential Information by either destroying the materials or returning the materials at no additional cost to the Purchaser.

## 7. LIABILITY

The Supplier warrants to the Purchaser that all Goods are of merchantable quality, of good material and workmanship, reasonably fit for their intended purpose and use as set out in the Australian Therapeutic Goods Administration certificate and are free from defects. The



Supplier warrants that the provision of the Goods does not infringe any intellectual property right or other right of a third party and that it has obtained all necessary licences, permits or approvals required for the supply of the Goods.

The Supplier warrants that the Purchaser will have the full benefit of any manufacturer's warranty; and where the Supplier is not the manufacturer of the Goods, the Supplier assigns the benefit of such warranties to the Purchaser or the Purchaser's nominee. The Supplier warrants that replacement parts of the Goods are and will continue to be available for a period of five years from the date of delivery and that the Supplier will provide at least 12 months' notice of any replacement parts being made obsolete.

The Supplier also warrants that it has the right to sell the goods and the Goods are free from any charge or encumbrance. The Supplier guarantees the Goods against patent and/or latent defects for 12 months from acceptance or for the period offered by the manufacturer (if longer).

- (a) The Supplier must indemnify the Purchaser and each of its Personnel and the Health Services and their officers, employees and agents (Indemnified Party) against any loss, damage, claim, action or expense (including all legal expense) or compensation arising directly from:
- i. personal injury, including sickness and death;
  - ii. property damage;
  - iii. any warranty given by the Supplier under this Order being incorrect or misleading in any way;
  - iv. fraudulent acts or omissions;
  - v. wilful misconduct or unlawful act or omission;
  - vi. third party claim arising out of a breach of the Order by the Supplier or its Personnel (including breach of warranty) or any negligent act or omission of the Supplier or its Personnel; or
  - vii. infringement or alleged infringement of the Intellectual Property Rights or any other rights of any person, including any third party,

which was caused, or contributed to by, any act or omission by the Supplier or any of its Personnel.

- (b) The Supplier's liability to indemnify the Indemnified Party under clause 6(b) is reduced to the extent that any wilful, unlawful or negligent act or omission by the Indemnified Party contributed to the loss, damage, claim, action, expense or compensation.

## 8. INSURANCE

- (a) Prior to delivering the goods to the Service the Supplier must obtain and maintain insurance cover, at the time of delivery of the goods and, if requested by the Purchaser, for a period of up to 7 years after the goods are delivered, sufficient to cover any loss or costs that may be incurred and for which the Supplier may be liable



in connection with the Order, including product liability insurance to the value specified in the Purchase Order or, if no value is specified, to the value sufficient to cover any loss or costs that may be incurred, and, if applicable, public liability insurance. Product liability insurance must be maintained for the longer of any warranty period and three years from acceptance of the Goods.

- (b) On request, the Supplier must, within 10 Business Days, provide the Purchaser with evidence of the currency of any insurance it is required to obtain.

This insurance must be with a reputable insurer and be for an amount, in respect of any one occurrence, of not less than \$20 million. Upon request, the Supplier must provide proof that the insurance required has been effected and maintained.

## 9. CONFLICTING CONDITIONS

If any conditions contained in the Supplier's quotation, acceptance of order or other documentation are contrary to or differ from the conditions specified in these terms or by the relevant purchase order, the conditions specified in these terms and the order will prevail unless the conditions in these terms and the order expressly contemplate otherwise. Acceptance of a Service purchase order and/or the performance of the relevant purchase order will be deemed to be acceptance of this condition notwithstanding that the acceptance of any documentation of the Supplier may contain a condition similar in terms to this condition.

If the Supplier is unable or unwilling to accept any of the conditions contained these terms and the relevant purchase order, then the order must be immediately returned to the Service.

## 10. VARIATION

These terms and conditions will not be subject to modification or alteration unless they are in writing and signed by a duly authorised representative of the Service.

## 11. WAIVER

A waiver by the Service in respect of a breach of this document by the Supplier shall not be deemed to be a waiver in respect of any other breach and the failure of the Service to enforce at any time a provision of this document shall in no way be interpreted as a waiver of such provision.

## 12. MAINTENANCE

All obligations in respect of maintenance of goods supplied and claims made under warranties are owed to, and must be enforceable by the Service.

## 13. COMPLIANCE AND REGULATIONS

- (a) The Goods must comply with all relevant statutory requirements, e.g., Therapeutic Goods Administration codes of practice, Australian Council of Healthcare Standards, ISO 9000 and Australian Standards. The onus rests with the Supplier to provide evidence of compliance.
- (b) The Supplier must act consistently with the Victorian Government's Supplier Code of



Conduct.

#### 14. DOCUMENTATION

All equipment must be supplied with two copies of full operating instructions (including electrical circuits, schematic diagrams and service manuals) in English together with all necessary instructions for routine maintenance and service so as to ensure safe and effective use of the equipment.

If a maintenance or warranty period is to be provided by the Supplier, details thereof must be provided within one month of acceptance of the relevant order. If the equipment must be commissioned on site by the Suppliers to give effect to the warranty, this must be stated.

If the equipment being supplied must be installed, the Supplier must provide all necessary details to allow correct installation to occur and must specify what part(s) (if any) of the installation is/are included in the quoted price.

All goods must be supplied with Material Safety Data Sheets (where appropriate).

#### 15. PRICE

The price as stated on the relevant purchase order must remain firm. No variation will be accepted without the prior approval of a duly authorised representative of the Service. The Supplier may not charge the Purchaser any additional fee or amount for packaging, transport, insurance, loading, unloading, storage or any other costs incurred by the Supplier in supplying or delivering the Goods to the Purchaser.

#### 16. GOODS AND SERVICES TAX (GST)

Terms used in this clause have the same meaning as those terms in A New Tax System (Goods and Services Tax) Act 1999.

The Service must pay the Supplier any GST payable in respect of the goods supplied in addition to the stated price.

The Service must pay to the Supplier any amount of GST that the Service is required to pay at the same time and in the same manner as the Service is required to pay the consideration for the supply to which the GST relates.

The Supplier must issue a tax invoice in the format required by the Service and the law to the Service for the supply. The tax invoice must set out the amount of the GST payable by the Service.

The Supplier warrants that it is registered or will be registered for Australian Business Number and for GST purposes at each time a taxable supply is made.

The Supplier indemnifies the Service for any loss it suffers as a result of the Supplier not being registered for GST and/or Australian Business Number purposes. On request by the Service the Supplier must produce evidence that it is so registered.





## 17. TERMS OF PAYMENT

Subject to compliance by the Supplier with these terms and conditions, the Purchaser must pay the price stated on this Order. Payments must be within 30 days following receipt of a correctly rendered and itemised invoice. If the Purchaser is not satisfied that the Goods have been provided in accordance with this Order, the Purchaser may, after giving the Supplier notice of the reasons why it is not satisfied, refuse to pay that part of the invoice until the Goods have been provided to its satisfaction.

## 18. CONFIDENTIALITY

Except as required by law; The Supplier must not, and must ensure that its employees, agents and contractors do not, disclose to any person any Confidential Information, without the prior approval of the Purchaser.

- (a) The Supplier must ensure that its employees, agents and any contractors engaged by it comply with privacy, health records or similar legislation which the Purchaser must comply with. The Supplier must not do anything, or fail to do anything, which would cause the Purchaser to be in breach of its own privacy and confidentiality obligations.
- (b) The Supplier consents to the Purchaser providing any information which the Purchaser has obtained from the Supplier pursuant to the Order to third parties for the purposes of benchmarking, monitoring, comparison or evaluation of contracts of this type or the purchase of the Goods, with the Purchaser taking reasonable steps (in its opinion) to keep such information confidential.
- (c) The Supplier must not, without the consent of the Purchaser, advertise or publish the fact that the Supplier is supplying Goods under this Order.
- (d) The Supplier acknowledges that the Purchaser may be required to disclose information under the Freedom of Information Act 1982 (Vic) or in accordance with a request made by the Parliament, the Minister for Health, the Governor, Cabinet, a Parliamentary committee or integrity body. The Supplier will provide all reasonable assistance to the Purchaser in responding to such a request.
- (e) The obligations imposed by this clause will survive the expiry or termination of this Order.

## 19. ASSIGNMENT

The Supplier may only assign any of its rights under the relevant purchase order with the Service's prior written consent. Further, the Supplier agrees to take all reasonable steps to ensure that its Personnel comply with the obligations set out in this Order.

## 20. GOVERNING LAW

These terms and conditions shall be governed by and construed in accordance with the laws of the State of Victoria and any related proceeding shall be heard at a location in Victoria deemed appropriate by the Service.

## 21. MODERN SLAVERY ACT

The Supplier must take reasonable steps to identify, assess and address risks of Modern

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Slavery practices in the operations and supply chains used in the provision of the Goods.

- (a) If at any time the Supplier becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of the Order, the Supplier must as soon as reasonably practicable take action to remove these practices from the operations and supply chains.
- (b) If requested by the Purchaser, with at least twenty (20) Business Days' notice, the Supplier must respond to any reasonable requests for information (including any supplier survey) provided by the Purchaser relating to its compliance under clause 14(a).
- (c) Where:
  - i. Either the Supplier or Purchaser has identified:
    - (a) Significant or persistent Modern Slavery risks; or
    - (b) Alleged Modern Slavery practice(s)in the operations and supply chains used in the performance of the Order; and
  - ii. The Purchaser has made reasonable efforts to engage the Supplier to take action to mitigate the risks to remove the practice(s); and
  - iii. The Supplier fails to take action to mitigate those risks or remove those practice(s), the Purchaser reserves the right to terminate the Order in accordance with clause 5(a).

## 22. ACCESS

When entering the premises of the Purchaser, the Supplier must (and must ensure that its Personnel) use reasonable endeavours to protect people and property, prevent nuisance and act in a safe and lawful manner and comply with the safety standards and policies of the Purchaser (as notified to the Supplier).

- (a) The Supplier acknowledges that if it (or any of its Personnel) enters the Purchaser's premises, it does so at the Supplier's own risk.

## 23. INTELLECTUAL PROPERTY

The Supplier irrevocably and unconditionally grants to the Purchaser a non exclusive, perpetual, royalty free, worldwide and transferable licence (including the right to sub-license) to use any Intellectual Property Rights in relation to any Goods supplied to the extent necessary to allow the Purchaser the full use and enjoyment of those Goods and the Supplier must, upon request by the Purchaser, do all things as may be necessary (including executing any documents) to give full effect to such rights.

## 24. RECALLS

The Supplier must:

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- (a) manage all recalls of Therapeutic Goods in accordance with the requirements of the Uniform Recall Procedure for Therapeutic Goods (URPTG) (as amended from time to time).
- (b) All communications, including recall notices, required under clause 23(a) must be sent to the Purchaser and the relevant Health Service.
- (c) All recalls and/or hazard alerts must be completed by the Supplier using GS1 Recall or Recall Health (as the case may be).

**Contributors**

	Position	Service / Program
<b>Lead Reviewer:</b>	Chief Executive Officer	
<b>Contributors:</b>	Procurement Officer, Finance Manager	
<b>Committee/s:</b>	Finance & Administration	29 July 2024