

## GENERAL CONDITIONS FOR THE SUPPLY OF GOODS

### 1 Supply of Goods

- (a) The Supplier must supply the Goods to the University in accordance with the Specification and otherwise in accordance with these Conditions.
- (b) The Supplier must deliver the Goods to the Delivery Point by the Time for Delivery. Delivery will not be taken to have occurred until delivery is acknowledged in writing by the University or deemed to have occurred.

### 2 Acceptance or rejection of Goods

- (a) If the Goods conform with the Specification or sample, the University will promptly accept the Goods in writing. If the Goods do not conform, the University may reject the Goods within 30 days by written notice giving reasons. If the University does not accept or reject the Goods within 30 days of delivery, delivery will be deemed to have then occurred.
- (b) The Supplier must at its cost collect and remove any Goods that have been rejected as soon as practicable or the University may return the Goods to the Supplier at the Supplier's expense.

### 3 Invoicing and payment

- (a) The Unit Price is fixed and includes all packaging, transport, insurance, loading, unloading and storage costs and any other costs incurred by the Supplier.
- (b) The Supplier must submit to the University a tax invoice for the Purchase Price following the supply of the Goods, which contains the information necessary to be a tax invoice for the purposes of the GST Act together with such other information as the University may reasonably require. The tax invoice must be sent to the address specified in the Purchase Order.
- (c) The University will pay the invoiced amount within 60 days of receipt of an accurate invoice. However, if the University disputes the invoiced amount it must pay the undisputed amount (if any) and notify the Supplier of the amount in dispute. The parties will endeavour to resolve any such dispute.
- (d) Payment of an invoice is not to be taken as evidence that the Goods have been supplied in accordance with the Agreement but must be taken only as payment on account.

### 4 Title and risk

Title in the Goods will pass to the University upon payment for the Goods. Risk in the Goods will pass to the University when the Goods are delivered to the Delivery Point.

### 5 Warranties

The Supplier warrants to the University that:

- (a) **(Title)** it has the right to sell and transfer title to and property in the Goods to the University;
- (b) **(IP)** it is entitled to use and deal with any Intellectual Property Rights which may be used by it in connection with the Goods;
- (c) **(Conflict)** it and its employees, agents and contractors do not hold any office or possess any property, are not engaged in any business or activity and do not have any obligations whereby duties or interests are or might be
- (d) created in conflict with or might appear to be created in conflict with its obligations under the Agreement; and
- (e) **(Goods)** the Goods:
  - (i) are new and fit for the purpose stated in the Specification (or, if no purpose is stated, the purpose for which the Goods would ordinarily be used);
  - (ii) conform in all respects with the Specification;
  - (iii) are free from defects (including defects in installation); and
  - (iv) are of merchantable quality and comply with all Laws.

Further, the Supplier must obtain, where provided for in the Specification, for the University the benefit of any manufacturer's warranties.

### 6 Liability

The Supplier must indemnify the University and each of its employees and agents against any loss, damage, claim, action or expense (including legal expense) which any of them suffers as a direct result of any failure to deliver the Goods in accordance with the Agreement or any other breach of the Agreement.

### 7 Intellectual Property Rights

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

### 8 Insurance

- (a) The Supplier must obtain and maintain insurance cover at all relevant times sufficient to cover any loss or costs that may be incurred and for which the Supplier is liable in connection with the supply of the Goods, including product liability insurance and, if applicable, public liability insurance.

- (b) On request, the Supplier must provide the University with evidence of the currency of any insurance it is required to obtain.
- (c) The Supplier must ensure that, except for any contract of professional indemnity insurance that may be required under item 8(a), or where prohibited by any applicable law, each contract of insurance referred to in item 8(b) must be endorsed:
- (i) with the University's interests and liabilities arising out of or in connection with this Agreement being noted; and
- (ii) With a cross-liabilities clause in which the insurer agrees that the policy applies as if a separate policy was issued to each named insured (with the exception of limits of liability).

## 9 Confidentiality

- (a) The Supplier and its employees, agents, directors, partners, shareholders and consultants must not disclose or otherwise make available any Confidential Information to any other person and may only use Confidential Information for the purpose of supplying the Goods to the University.
- (b) The Supplier hereby consents to the University publishing or otherwise making available information in relation to the Supplier (and the supply of the Goods) as it determines.

## 10 Access

When entering the premises of the University, the Supplier must ensure that its employees, agents and sub-contractors 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 University.

## 11 Sub-contracting

- (a) The Supplier must not sub-contract to any third person any of its obligations in relation to the supply of the Goods without the prior written consent of the University (which may be given or withheld in its absolute discretion).
- (b) The Supplier will not, as a result of any sub-contracting arrangement, be relieved from the performance of any obligation under the Agreement and will be liable for all acts and omissions of a sub-contractor as though they were the actions of the Supplier itself.

## 12 Compliance with Law

The Supplier must, in the supply of the Goods, comply with all Laws and with the lawful requirements or policy of the University applicable to the provision of the Goods by the Supplier.

## 13 South Street Campus - Priority Management Zone for the destructive European House Borer (EHB)

Murdoch University's whole South Street campus is a Priority Management Zone (PMZ) for the destructive European House Borer (EHB). EHB infests seasoned (dried or dead) pinewood, including the dead or

damaged parts of living pine trees, and wood derived from these trees. EHB can cause major structural damage to buildings.

Due to the new regulations implemented on the 1st September 2006, the following restrictions must be strictly adhered to by the Supplier:

- a) No pine pallets are to be used or brought onto the South Street campus.
- b) The Supplier must not bring (dried or dead) pinewood that is of no commercial value into a PMZ. (This includes off-cuts and firewood.)

There are penalties of up to \$2,000 to any person or Supplier failing to comply with the regulations.

## 14 General

- (a) The Agreement is governed by and is to be construed in accordance with the laws applicable in Western Australia. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.
- (b) Time is of the essence in relation to the supply of the Goods.

## 15 Interpretation

In these Conditions, unless the context otherwise requires:

**Agreement** means the agreement for the supply of the Goods of which these Conditions and the Purchase Order form part.

**Conditions** means these General Conditions for the Supply of Goods.

**Confidential Information** means any technical, scientific, commercial, financial or other information of, about or in anyway related to, the University, including any information designated by the University as confidential, which is disclosed, made available, communicated or delivered to the Supplier, but excludes information:

- (a) which is in or which subsequently enters the public domain other than as a result of a breach of these Conditions;
- (b) which the Supplier can demonstrate was in its possession prior to the date of the Agreement;
- (c) which the Supplier can demonstrate was independently developed by the Supplier; or
- (d) which is lawfully obtained by the Supplier from another person entitled to disclose such information.

**Delivery Point** means the location or address to which the Goods are to be delivered, as specified in the Purchase Order.

**University** means the Department, School or Area of the University issuing the Purchase Order or Order.

**Goods** means the goods (or any of them) specified in the Purchase Order.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Intellectual Property Rights** includes all present and future copyright, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, confidential information (including trade secrets and know how), registered designs, circuit layouts, and all other proprietary rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

**Laws** means the law in force in Western Australia and the Commonwealth of Australia, including common law and legislation.

**Purchase Order** means any form of order or acceptance from the University for the supply of the Goods which incorporates these Conditions.

**Purchase Price** means the sum ascertained by multiplying the Unit Price for the applicable Goods by the number of units delivered.

**Specification** means the specifications to which the Goods must comply, as set out in the Purchase Order or as otherwise incorporated in the Agreement.

**Supplier** means the person supplying the Goods under these Conditions.

**Time for Delivery** means the date and, where relevant, the time specified in the Purchase Order (or such other date or time as may be agreed in writing) by or on which delivery of the Goods must be effected by the Supplier.

**Unit Price** means the price per item of each of the Goods, as specified in the Purchase Order.

**University** means Murdoch University, a body corporate established pursuant to section 4 of the Murdoch University Act 1973 (WA).