

NSW FIRE BRIGADES GENERAL PURCHASE AGREEMENT

Terms and Conditions

1. GENERAL

a) These terms and conditions apply to all purchase orders (Orders) for goods and/or services (goods/services) placed by the NSW Fire Brigades (NSWFB) to a supplier (Supplier) and are in addition to any terms and/or conditions specified in an individual order. b) Where an Order is issued under the terms of a contract between NSWFB and the Supplier (supplier contract) or under a State Contracts Control Board contract (existing contract), this agreement shall be in addition to the terms and conditions of the supplier contract or existing contract. In the event of any inconsistency, the supplier contract or the existing contract will prevail to the extent of the inconsistency. c) No other terms or conditions or any variations apply to an Order by NSWFB unless NSWFB has agreed in writing to them.

2. THE AGREEMENT

a) Supply of goods/services pursuant to an Order shall constitute acceptance of the terms of this agreement. b) This agreement is not assignable by the Supplier without the prior written consent of NSWFB. c) The laws of New South Wales govern this agreement.

3. WAIVER

a) A waiver of a breach of a term of this agreement shall not be taken to be a waiver in respect of any other breach. b) The failure of either party to enforce a term of this agreement will not be interpreted as a waiver of that term.

4. PRICE

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

5. WARRANTIES

a) In relation to goods supplied under this agreement, the Supplier warrants that at the time ownership of goods passes to NSWFB, they 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. b) Where the goods have been procured from third parties, the Supplier assigns to NSWFB the benefits of any warranties given by the third parties in addition to warranties offered by the Supplier under this agreement. c) 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 to 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

a) Title to the goods/ services vests in NSWFB upon acceptance. The Supplier assumes all risk in the goods/services until NSWFB accepts them. b) The Supplier must supply the goods/services on the date, time and place specified by NSWFB and time is of the essence. c) The Supplier must ensure that all invoices, packing slips and other documents have an Order number, description and quality of the goods, the name of the NSWFB representative. The goods must be packed for safe delivery to NSWFB. NSWFB will not accept the goods or pay for the goods unless the Order number is included in the documents issued by the Supplier. d) Acceptance of the goods/ services by NSWFB is subject to satisfactory inspection on delivery. e) Goods/services that do not comply in every respect with the description, specification and 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.

7. DEFECTIVE GOODS

a) The Supplier, at its own cost, shall remedy any defect in supplied goods/services that have been notified to it by NSWFB but if it fails to do so within 30 days of being so notified, NSWFB 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 NSWFB at law.

8. PAYMENT

a) If the Supplier has supplied the goods/services in accordance with the Order, NSWFB 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 NSWFB, 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 NSWFB. b) Invoices not containing the Order number will be returned unpaid to the Supplier. c) Payment is not an acknowledgement that the goods/services have been supplied in accordance with this agreement but shall be taken to be on account only until acceptance of the goods/services by NSWFB. d) Complaints about the late payments by NSWFB may be made to the **Accounts Complaints Officer on (02) 9265 2910**.

9. INSURANCES

a) 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 NSWFB on demand.

10. COMPLIANCE WITH LEGISLATION

a) The Supplier shall comply with the requirements of all legislation including Occupational Health and Safety legislation.

11. INDEMNITY

a) The Supplier shall indemnify NSWFB, 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) 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. TERMINATION

NSWFB 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 NSWFB. 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 NSWFB 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 NSWFB to the Supplier in respect of this agreement and its termination. c) NSWFB 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 NSWFB.