

General conditions of purchase order and contract for the supply of goods and services

1. General

All additions or alterations to these General Conditions shall be in writing and attached as Special Conditions to the Purchase Order and Contract. In the event of any inconsistency between these General Conditions and any Special Conditions, the latter shall prevail.

The Contractor may only accept this Purchase Order on the General Conditions set out in this Purchase Order and any Special Conditions attached to this Purchase Order. Any attempt at acceptance by the Contractor on the basis of substituted conditions shall operate as a counter offer and shall not be binding on SA Water unless SA Water accepts the counter offer in writing stating that the General Conditions and any Special Conditions of this Purchase Order are modified to the extent and in the manner agreed by SA Water. In the absence of any such express agreement any additional or different terms proposed by the Contractor are automatically rejected and the subsequent supply of Goods and Services by the Contractor in response to this Purchase Order shall be on the General Conditions set out in, and any Special Conditions attached to, this Purchase Order.

2. Safety

The Contractor shall perform all services in accordance with the applicable/current Work Health and Safety legislation.

3. Price basis

The Purchase Order and Contract Price is firm subject to any Special Conditions. Prices shall include customs duty (unless specifically exempt), packaging, marking, handling, freight and delivery (Free-in-Store), insurance, and any other applicable costs and charges. The Contractor shall issue SA Water with a valid tax invoice in accordance with *A New Tax System (Goods and Services Tax) Act 1999* (the GST Act).

4. Payment of accounts

SA Water's standard terms of payment are 15 days from completion of the Services and/or receipt of Goods along with provision of a correctly rendered invoice which should be in a machine readable PDF delivered to Accounts Payable (accounts payable@sawater.com.au). An invoice is correctly rendered if it is issued and reflects the correct price in respect of Goods or Services which the Contractor is entitled to invoice, is a valid Tax Invoice within the meaning of the GST law and references the applicable Contract or Purchase Order number.

5. Performance of the Contract

The Contractor shall deliver the Goods and/or provide the Services at the time and place specified in the Purchase Order and Contract. The Contractor shall ensure that the Goods and/or Services comply with all of the General Conditions, and Special Conditions (if any).

6. Variations

Variations to the Purchase Order and Contract must be in writing.

7. Warranties

Goods:

The Contractor warrants that the Goods:

- a. are new (unless otherwise specified);
- b. are unencumbered;
- c. conform to any Specifications issued by SA Water in connection with this Purchase Order;
- d. conform to the Contractor's technical specifications;
- e. are free from defects in materials, manufacture, and workmanship;
- f. conform to any legally applicable standards;
- g. are of merchantable quality;
- h. are installed correctly (if the Contractor is responsible for installation); and
- i. are fit for their intended purpose.

SA Water may reject, within the warranty period, Goods that are faulty or do not fully comply with this Purchase Order. The Contractor shall make good or replace these Goods at no additional cost, including removal and incidental costs, within the time specified by SA Water.

Warranty period: The warranty period for Goods commences on the date of acceptance testing, or if no acceptance testing is carried out by SA Water on the first day of operational use of the Goods by SA Water and ends on the later of the first 12 month anniversary of that date unless otherwise agreed in writing between SA Water and the Contractor.

Services: The Contractor warrants that it will render the Services with due skill and care, and that materials supplied in connection with the Services will be fit for purpose.

If there is a defect in performance of the Services or they are incomplete, SA Water may, by notice, require the Contractor to remedy the defect in performance, complete the Services, or re-do the Services at no additional cost to SA Water. The Contractor has 30 days from the date of the notice to comply.

8. Intellectual Property

SA Water will own all intellectual property rights in anything that is generated wholly or partly by the Contractor in the course of the provision of any Services.

9. Confidential Information

All information which the Contractor obtains in the course of providing the Goods or Services is confidential and must not be disclosed or used by the Contractor except for the purpose of supplying the Goods or carrying out the Services.

10. Insurance

The Contractor must maintain in force at its own expense during the Term public liability insurance cover of ten million dollars for each occurrence. SA Water, in specifying levels of insurance in this Purchase Order accepts no liability for the completeness of their listing, the adequacy of the sum insured, limit of liability, scope of coverage, conditions or exclusions of those insurances in respect to how they may or may not respond to any loss, damage or liability.

11. Indemnity

The Contractor will indemnify, SA Water and keep indemnified, SA Water from and against any costs, losses, damages, expenses (including legal expenses), liabilities or other outgoings of any nature arising out of or in connection with any breach of obligation or warranty under this Purchase Order, or any negligence, wrongful act or omission or breach of duty by the Contractor or any of its employees or agents.

12. Privacy and Records Standards

The Contractor agrees that in performing its obligations under this Purchase Order it will act in a manner that ensures that SA Water is able to comply with Information Privacy Principles and State Records' Contracting and Official Records Standard.

13. Gifts, benefits and incentives

In this clause "public sector employee" has the meaning given in the *Public Sector Act 2009*.

The Contractor agrees to conduct itself in a manner that does not invite, directly or indirectly, SA Water's officers, employees or agents or any public sector employee to behave unethically, to prefer private interests over SA Water's interests or to otherwise contravene the Code of Ethics for the South Australian Public Sector. If the Contractor fails to comply with this requirement SA Water may terminate this purchase order, refuse further payment, and at its discretion, return unused goods.

If the arrangements related to this Purchase Order include the intentional promise or delivery of any goods or benefits (whether to SA Water or any of its officers, employees or agents or any public sector employee) not specified in the Purchase Order and SA Water is reasonably satisfied that promise or delivery is not the result of a genuine mistake, then SA Water may terminate this Purchase Order, recover all moneys paid under this Purchase Order, refuse further payment, and (at its discretion) return unused goods.

Nothing in this clause derogates from SA Water's other rights under this Purchase Order.

14. Contract disclosure

SA Water may disclose this Purchase Order or information in relation to this Agreement in either printed or electronic form and either generally to the public or to a particular person as a result of a specific request or as required by SA government policies and procedure.

While SA Water understands the need to keep commercial matters confidential in appropriate circumstances, SA Water reserves the right to disclose some or all of the contents of your (bid/offer/contract) and related information to the Australian Competition and Consumer Commission ("ACCC") if SA Water reasonably suspects, or is notified by the ACCC that it reasonably suspects, that cartel conduct or unlawful collusion has occurred or exists in connection with the procurement process to which your (bid/offer/contract) relates, whether or not the suspicion relates to your particular (bid/offer/contract), and any condition in your (bid/offer/contract) that purports to prohibit or restrict the Government's right to make such disclosures is not accepted.

15. Termination

SA Water may terminate the Purchase Order and Contract in whole or in part when the Contractor has not remedied a breach within the time specified in the notice of breach, becomes bankrupt or insolvent, or is unable to complete the Contract.

16. Force Majeure

Neither the Contractor nor SA Water will be liable to the other for default or delay in performing its obligations under this Agreement caused by any occurrence beyond its reasonable control (including, without limitation, nation-wide or state-wide strikes, riots, industrial disturbances, wars, acts of God, Government order of regulations, storm, tempest or epidemics). Each party must promptly notify the other Party of any occurrence beyond its reasonable control which may or does cause delay or default in performing its obligations and use its best efforts to overcome the effects of the occurrence as soon as possible.

17. Assignment/Subcontracting

The Contractor must obtain the prior written approval of SA Water to assign or subcontract the Purchase Order or any part thereof. Approval to assign or subcontract shall not relieve the Contractor from any of its obligations under the Purchase Order and Contract, or impose any liability upon SA Water to an assignee or a subcontractor.

18. Title, acceptance and risk

Title to the Goods vests in SA Water on acceptance by SA Water. The risk of any loss or damage to the Goods remains with the Contractor until delivery to SA Water.

19. Notices

All notices, requests, variations, and other communications by both parties are to be in writing and delivered promptly to the appropriate addresses named in the Purchase Order.

20. Existing Contracts and Standing Offers

Where this Purchase Order is issued under the terms of a Standing Offer or to extend the terms of an existing contract, the terms of that Standing Offer or existing contract shall prevail. Special Conditions, where utilised, shall take precedence over both the terms of the Standing Offer and an Existing Contract.

21. Waiver

Failure by either party to enforce a provision of the Purchase Order and Contract shall not be construed as in any way affecting the enforceability in any other instance, or the enforceability of the Purchase Order and Contract as a whole.

22. No offer of employment to SA Water employees

The Contractor agrees during the Term of this Purchase Order and for a period of twelve months after it ends, not to directly or indirectly offer employment or solicit or use the services of any of SA Water's employees (either independently or via a third party). However, the Contractor may advertise or recruit generally in the media.



23. Applicable Law

This Purchase Order and Contract shall be governed by and construed in accordance with the law applicable in South Australia.

24. Cyber and Data Security

The Contractor acknowledges and expressly agrees that in the performance of this Purchase Order, it may be provided with data that may include personal, confidential, or technical information. The Contractor shall, while the data is in its custody and control, implement robust security measures to protect that data from unauthorized access or disclosure and ensure that all data is stored, processed within Australia. These obligations extend to all subcontractors, service providers, and any other third or fourth parties engaged by the Contractor in connection with the performance of this Purchase Order.

Upon expiry or termination of this Purchase Order, the Contractor shall ensure that all such data, including any backups or records, and any data held by third or fourth parties, is at the option of SA Water, either returned to SA Water or is permanently deleted.

The Contractor must also comply with all relevant data protection laws and, if requested by SA Water at any time, including after the expiry or termination of this Purchase Order, confirm in writing that it has complied with these obligations. The Contractor shall notify SA Water as soon as practicable, but no later than 24 hours after becoming aware, of any cybersecurity incidents where the Contractor's systems/data or those of any engaged third or fourth parties are suspected to have been the subject of a data breach.

25. Conflicts of Interest

- 25.1 The Contractor warrants to the Principal that neither it, nor any of its Personnel, have a Conflict of Interest under this Agreement.
- 25.2 If the Contractor becomes aware that it or any of its Personnel do have or will have a Conflict of Interest, then the Contractor shall immediately inform the Principal, in writing, with full details of that Conflict of Interest.
- 25.3 The Contractor shall comply with all reasonable directions of the Principal requiring it to resolve or otherwise deal with any Conflict of Interest.
- 25.4 The provision of this clause will operate without prejudice to any other rights which the Principal may have arising out, or in respect of, the existence of any Conflict of Interest or potential Conflict of Interest.

26. Independent Commission Against Corruption (ICAC)

- 26.1 For the term of this Agreement, the Contractor is considered a "public officer" for the purposes of the *Independent Commission Against Corruption (ICAC) Act 2012 (SA)*. This means that the Contractor:
 - 26.1.1 must comply with all relevant obligations under the ICAC Act and the Public Sector Code of Ethics, which is available at www.publicsector.sa.gov.au;
 - 26.1.2 must report to the Office of Public Integrity (OPI), any conduct reasonably suspected to be corruption, misconduct, or maladministration; and
 - 26.1.3 must also adhere to any directions and guidelines published by ICAC.
- 26.1.4 the Contractor must ensure that every subcontract entered into for the performance of the Agreement includes Clauses 25 and 26. The Contractor remains responsible for ensuring that all subcontractors are aware of and adhere to these obligations.

27. Training

- 27.1 The Contractor must complete mandatory training requirements as directed by the Principal, including but not limited to, its Ethics and Code of Conduct for Contractors training, which includes information concerning conflict of interests, and any other ICAC related trainings at least every two years throughout the life of the contract. The training is accessible via SA Water's corporate website at www.sawater.com.au/about-us/how-we-operate/policies/ethics-and-code-of-conduct-for-contractors or through other means as advised by the Principal.
- 27.2 The Principal may direct a sub-contractor, through the Contractor, to also undertake training as required under this contract and in these circumstances, the Contractor undertakes to require this training be completed by the sub-contractor.
- 27.3 The Principal reserves the right to periodically audit the Contractor's compliance with all training requirements under this Agreement. The Contractor must provide to the principal, upon demand, a report evidencing compliance or non-compliance.

28. Security vetting of Contractor's personnel

SA Water operates several assets which it considers to be critical infrastructure assets, which are consistent with Commonwealth and State Government definitions, or otherwise determined to be critical infrastructure assets at SA Water's discretion.

SA Water may at any time require Contractors and Subcontractors (including individual personnel) that access these assets to undertake security vetting. If requested by SA Water, the Contractor must provide any documents to the satisfaction of SA Water, which are required to progress and complete the security vetting process.

For clarity, any information is provided for the purpose of security vetting only and may be shared with authorised vetting organisations, including government bodies, for identity verification and background checks. SA Water acknowledges that it is bound by Privacy Principles, and as such any identification information of individuals shared with SA Water, shall be dealt with in confidence and subject to Privacy Principles.



28. Security vetting of Contractor's personnel (continued)

Individuals who refuse to consent to, or who do not meet security vetting requirements (at SA Water's sole discretion), will not be granted access to the asset(s) or if they already have access then any new or existing access to the asset(s) may be denied. SA Water site access, including but not limited to, system logins, will be suspended or removed if vetting is incomplete, unclear, or not current.

SA Water may advise that the requirements were not met but is not required to disclose any further details in relation to the security vetting process.

The Contractor must ensure sufficient numbers of security vetted personnel are always available to perform the services required of this agreement.

29. Machinery of Government Change

In this clause "Machinery of Government Change" means a change to the structure, function or operations of the South Australian Government or SA Water as a result of any government reorganisation, restructuring or other organisational or functional change.

The Parties acknowledge and agree that subject to any contrary legislative intention, if there is any Machinery of Government Change, this Agreement is deemed to refer to the new entity succeeding or replacing SA Water and all of SA Water's rights and obligations under this Agreement will continue and will become rights and obligations of that new entity.

