

State Library Victoria - Standard Terms

(v 1.1 July 2024)

The Supplier agrees that delivery and supply to the Library is made in accordance with the following terms and conditions when:

- its Quote is accepted by the Library
- a Purchase Order is issued to it

Together these form the **Contract**.

1 Supply of Deliverables

- The Supplier agrees to supply the Deliverables with due care, diligence, and skill, consistent with the highest industry and professional standards relevant to the successful completion of the Contract.
- The Supplier must ensure that the Deliverables are fit for purpose, conform to any requirement notified to the Supplier, and are supplied by the date required by the Library.
- When the Deliverables include goods:
 - the Supplier must ensure that these are delivered free from defects and free from any security interest
 - title to the goods will transfer on acceptance by the Library
 - the Library may reject any Deliverables, which do not meet the Library's requirements by notifying the Supplier in writing within 5 Business Days of delivery to the Library.
- When the Supplier has agreed that the Deliverables will be performed or delivered by specific individuals, the Supplier must not replace those individuals without the Library's prior written consent.
- The Supplier must comply with all laws, regulations, and other applicable Library and Victorian government policies as notified by the Library, including the Victorian Government's Supplier Code of Conduct.
- The Supplier must have ongoing and appropriate insurance in connection with the supply of the Deliverables, consistent with industry practice, and provide evidence to the Library on request.

2 Payment

- Subject to the Supplier's compliance with this Contract, the Library will pay the Supplier the amount stated in the Purchase Order on receipt of a valid tax invoice that complies with Goods and Service Tax (GST) law.
- The Supplier must state the Purchase Order number on its tax invoice and send it electronically to the Library's nominated email address.
- The amount set out in the Purchase Order is the most the Library will pay for the quoted Deliverables. The Supplier is not entitled to any payment which exceeds the Purchase Order amount.
- The Library will not reimburse the Supplier for any expenses unless it has given prior written approval before the expense has been incurred.
- The Library can make a superannuation guarantee payment to an individual Supplier once it receives relevant information from that person.

3 Confidentiality

- The Supplier must not disclose any information that has been designated by the Library as being confidential or that a reasonable person would know is confidential unless the Library provides prior written approval of disclosure.
- The Library may require the Supplier, and any of its officers, employees, agents, and subcontractors to sign a Deed of Confidentiality.

4 Access

When entering the Library, the Supplier must:

- act in a safe and lawful manner
- comply with the safety standards and policies of the Library
- comply with any industry standards
- comply with any direction given by the Library Representative or its suitably appointed delegate including completing induction and adhering to the Library's Child Safety Code of Conduct and Workplace Behaviour Policy.

5 Intellectual Property Rights ownership

The parties agree that either option A or B applies to Intellectual Property Rights (IPRs) under the Contract.

Option A: Supplier owns IPRs (default position)

Option B: Library owns IPRs (if confirmed on Quote)

6 Warranty and Indemnity

a) The Supplier warrants that:

Option A	Option B
it exclusively owns, or has an irrevocable right to license, the IPRs in the Deliverables; and it has the irrevocable right to, and does grant, the Library a perpetual, irrevocable and royalty-free licence to the IPRs to enable the Library to use the Deliverables without restriction, for their intended purpose and to fulfil the Library's functions as set out in Section 18 of the <i>Libraries Act 1988 (Vic)</i> .	it has the irrevocable right to, does and will, assign all IPRs it creates under the Contract to the Library.

b) The Supplier further warrants that:

- i. it has the irrevocable right to grant the Library a perpetual, irrevocable and royalty-free licence to its pre-existing IPRs (if any) and any third-party rights to enable the Library to use the Deliverables without restriction, for the intended purpose, and as though the IPRs had been assigned to it
- ii. it has obtained all licences and approvals required to supply the Deliverables, and the supply will not infringe any third-party rights
- iii. if the Deliverables include any recording or performance, the Supplier will ensure that each person being recorded provides prior consent in writing in a form and manner acceptable to the Library.

The Supplier indemnifies the Library and each of its employees and agents against any loss, damage, claim, action, or expense (including legal expense) that any of them suffers as a direct result of any failure to provide the Deliverables in accordance with the Contract and any breach of Contract or warranty.

7 Privacy

- a) Both parties understand the importance of Personal Information and each will comply with the Library's Privacy Policy, the Information Privacy Principles and any applicable Code of Practice with respect to any act done in connection with the provision of the Deliverables.
- b) The Supplier will restrict access to any Personal Information obtained via its association with the Library to only those individuals who have a need to access the information to perform this Contract.
- c) The Supplier agrees that it will ensure these obligations extend to any subcontract under this Contract.
- d) The parties acknowledge that they cannot perform this Contract without the Personal Information of the individuals chosen to perform the obligations under this Contract. Each party is responsible for making sure that their teams understand that their Personal Information will be managed in accordance with the Library's Privacy policy and the relevant laws.
- e) The Supplier will notify the Library as soon as practicable in the event of an actual or suspected Data Breach by the Supplier, or its subcontractors, and give full disclosure to Library regarding the circumstances, investigation details (including status, scope, status and findings), likely affected individuals, the Supplier's response (including interim and future security measures) and any other information reasonably requested by the Library.

8 Recordkeeping

- a) The Supplier must keep, and ensure that any subcontractors keep, complete and accurate records for 7 years after the Contract ends.
- b) The Supplier must securely store and ensure the integrity of all records in accordance with all applicable standards issued under the *Public Records Act 1973 (Vic)*.

9 Assignment and Subcontracting

- a) The Supplier cannot assign any rights under this Contract without the Library's prior written consent.
- b) Unless otherwise stated in the Quote, the Supplier may not subcontract any part of this Contract without the Library's written consent.

- c) Where the Library consents to subcontracting, the Supplier is responsible for all actions and omissions of its subcontractors and for fulfilling all obligations under this Contract.

10 Termination

- a) The Library may terminate this Contract immediately by notice if the Supplier breaches clauses 1, 3, 4, 5 or 7. The Supplier indemnifies the Library and each of its employees and agents against any loss, damage, claim, action, or expense (including legal expense) that any of them suffers as a direct result of any failure to provide Deliverables in accordance with these Conditions or any other breach of Contract or warranty.
- b) To the extent permitted by law, the operation of the Proportionate Liability Legislation in relation to any claim arising out of or in connection with the Contract is excluded.

11 Notices

- c) A notice will be deemed to be delivered if sent:
- i. by registered post (to the address set out in the Quote), on delivery to the relevant address
 - ii. by email, upon confirmation of receipt by the recipient.
- d) If a notice is delivered after 5 pm or on a day that is not a Business Day, it will be deemed to be delivered on the next Business Day.

12 General

- a) This Contract is governed by the laws of the State of Victoria.
- b) This Contract does not authorise the Supplier to bind or make representations on behalf of the Library.
- c) This Contract, including the Quote, Purchase Order and these terms and conditions, sets out the entire understanding between the parties regarding its subject matter.
- d) In this Contract, unless a contrary intention appears:
- i. 'Including' and 'includes' are not words of limitation.
 - ii. The singular includes the plural.
 - iii. A reference to a 'law' includes any law operating in Victoria under common law, equity or statute and any applicable

regulations and requirements of any Commonwealth, State, or local authority.

- iv. All prices are in Australian dollars and exclusive of GST.
- v. Invalid or unenforceable terms will be severed without affecting the rest of the Contract.

13 Definitions

In this Contract:

Business Day means a day that is not a Saturday, Sunday, or a public holiday in Melbourne.

Code of Practice means a code of practice as defined in and approved under the PDP Act.

Data Breach refers to circumstances where Personal Information, which is held by or on behalf of the Library, is accessed or disclosed in a way that is not intended by the Library. This includes lost and stolen information.

GST law has the meaning given to it in the [New Tax System \(Goods and Services Tax\) Act 1999 \(Cth\)](#).

'Health Privacy Principles' has the meaning given in the [Health Records Act 2001 \(Vic\)](#).

Indigenous Cultural Knowledge includes cultural practice, traditional knowledge and resources held and continually developed by Aboriginal and Torres Strait Islander people.

Information Privacy Principles or **IPP** means the information privacy principles set out in the PDP Act.

Intellectual Property Rights (IPRs) means all present and future copyright, patents, service marks, domain names, proprietary rights, trademarks, designs, circuit layouts, and all other intellectual property rights, whether registered or unregistered, resulting from intellectual activity in the industrial, scientific, literary, or artistic fields.

Library means the Library Board of Victoria, trading as State Library Victoria.

PDP Act means the [Privacy and Data Protection Act 2014 \(Vic\)](#). 'Personal Information' has the meaning given to it in the PDP Act.

Purchase Order means the documentation generated by the Library's finance system and sent to the Supplier to approve the purchase.

Quote means the response provided by the Supplier to Library's Request for Quote.

Supplier means the person or entity supplying goods or services under this contract.