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SOUTH GIPPSLAND HOSPITAL PURCHASE ORDER TERMS AND CONDITIONS
also known as **SOUTH GIPPSLAND HOSPITAL TERMS OF TRADE Form 544**

1. Application

- 1.1. These Purchase Order Terms and Conditions apply to all goods and services supplied under a South Gippsland Hospital Purchase Order unless otherwise agreed in writing.
- 1.2. The Supplier acknowledges that South Gippsland Hospital as a Victorian Public Hospital is bound by the Health Services Act 1988 (Vic), HealthShare Victoria Purchasing Policies, Victorian Government Purchasing Board policies and directions, and other applicable Victorian Government procurement requirements. If any provision of these Purchase Order Terms and Conditions is inconsistent with the Health Services Act 1988 (Vic), HealthShare Victoria Purchasing Policies, Victorian Government Purchasing Board policies or directions, or any other applicable law or mandatory government requirement, the relevant law, policy, direction or requirement will prevail to the extent of the inconsistency.

2. Delivery

- 2.1. The Supplier must deliver goods or perform services at the location, date and time specified in the Purchase Order. The default is; Location: South Gippsland Hospital, 87-89 Station Road, Foster, VIC, 3960. Delivery time: 9:00-16:00 Monday-Friday. Deliveries outside this timeframe need to be negotiated.
- 2.2. All deliveries must clearly reference the South Gippsland Hospital Purchase Order number.
- 2.3. Deliveries must be accompanied by appropriate delivery documentation detailing:
 - i. Purchase Order number;
 - ii. description of goods or services;
 - iii. quantities supplied; and
 - iv. any other information reasonably required by South Gippsland Hospital
- 2.4. High risk goods such as cold chain, blood, and medication deliveries must be physically received by South Gippsland Hospital approved staff.
- 2.5. South Gippsland Hospital reserves the right not to accept goods delivered outside approved delivery arrangements.

3. Invoicing

- 3.1. All invoices must quote the Purchase Order number.
- 3.2. Invoices not containing a valid Purchase Order number may be returned unpaid.
- 3.3. Payment will be made in accordance with the Purchase Order and applicable Victorian Government payment requirements.

4. Inspection and Acceptance

- 4.1. Goods and services supplied under a Purchase Order are subject to inspection and acceptance by South Gippsland Hospital.
- 4.2. Receipt or acknowledgement of delivery does not constitute acceptance.
- 4.3. South Gippsland Hospital may reject goods or services that:
 - i. are damaged;
 - ii. are defective;
 - iii. do not comply with specifications;
 - iv. are not fit for their intended purpose; or
 - v. do not comply with applicable laws or standards.
- 4.4. The Supplier must promptly replace, repair or rectify rejected goods or services at its own cost.

5. Warranties

- 5.1. The Supplier warrants that all goods and services supplied:
 - i. are of acceptable quality;
 - ii. are fit for purpose;
 - iii. comply with all relevant legislation, standards and regulatory requirements; and
 - iv. are free from defects in materials and workmanship.

5.2. The Supplier agrees to honour all manufacturer and supplier warranties applicable to the goods or services supplied.

6. Documentation

6.1. Where relevant, the Supplier must provide:

- i. operating instructions;
- ii. maintenance information;
- iii. service manuals;
- iv. commissioning documentation;
- v. safety information; and
- vi. Safety Data Sheets (SDS).

6.2. Documentation must be supplied in English unless otherwise agreed.

7. Site Access, Safety and Conduct

7.1. The Supplier and its personnel must comply with:

- i. South Gippsland Hospital policies and procedures;
- ii. occupational health and safety requirements;
- iii. infection prevention and control requirements;
- iv. security requirements; and
- v. all reasonable directions given by authorised Hospital personnel.

7.2. The Supplier is responsible for the conduct of its employees, contractors and agents while on Hospital premises.

8. Pricing

8.1. Prices stated on the Purchase Order are fixed and include all costs associated with supply, packaging, transport, delivery and handling unless otherwise agreed in writing.

8.2. No price variation will be accepted unless approved in writing by South Gippsland Hospital before supply.

9. Governing Law

9.1. These Terms and Conditions are governed by the laws of Victoria and the parties submit to the jurisdiction of the courts of Victoria.

9.2. If any provision of these Purchase Order Terms and Conditions is inconsistent with the Health Services Act 1988 (Vic), HealthShare Victoria Purchasing Policies, Victorian Government Purchasing Board policies or directions, or any other applicable law or mandatory government requirement, the relevant law, policy, direction or requirement will prevail to the extent of the inconsistency.

10. Purchase Order Type and Cancellation

10.1. Unless otherwise stated on the Purchase Order, each Purchase Order constitutes a one-off transaction for the supply of the specified goods or services.

10.2. Where a Purchase Order is identified as a recurring, standing or periodic order, the Supplier may provide the goods or services specified in the Purchase Order for the period, frequency and value stated in the Purchase Order.

10.3. Where a Blanket Purchase Order is issued, individual deliveries or service requests may be identified by a separate release, call-up, work order, requisition or reference number issued by South Gippsland Hospital. Each release issued under the Blanket Purchase Order forms part of the same Purchase Order and is subject to these Terms and Conditions.

10.4. Where a Purchase Order specifies a quantity, term, value limit or expiry date, the Supplier must not supply goods or services beyond that quantity, term, value limit or expiry date without the prior written approval of South Gippsland Hospital.

10.5. The issue of a Purchase Order does not create any obligation on South Gippsland Hospital to purchase any minimum quantity of goods or services beyond those expressly stated in the Purchase Order.

10.6. Cancellation and Termination of Purchase Orders

- i. South Gippsland Hospital may cancel, suspend or terminate any Purchase Order, including a Recurring Purchase Order or Blanket Purchase Order, at any time by written notice.

- ii. South Gippsland Hospital may immediately suspend or terminate a Purchase Order where the Supplier:
 - a. breaches these Terms and Conditions, the South Gippsland Hospital Mandatory Clauses, or any applicable law;
 - b. fails to supply goods or services in accordance with the Purchase Order;
 - c. becomes insolvent, enters administration, liquidation or receivership, or ceases to carry on business; or
 - d. engages in conduct that may adversely affect the reputation, operations or legal obligations of South Gippsland Hospital.
- 10.7.** The Supplier will only be entitled to payment for goods delivered and accepted, or services satisfactorily performed, before the effective date of cancellation or termination.
- 10.8.** For Recurring Purchase Orders and Blanket Purchase Orders, cancellation or termination applies only to future orders, releases, work orders, call-ups or service requests not already issued and accepted by South Gippsland Hospital.
- 10.9.** The Supplier shall have no claim for loss of profit, loss of opportunity, future work, consequential loss or any other costs arising from the cancellation, suspension or termination of a Purchase Order.
- 10.10.** No Purchase Order, including a Recurring Purchase Order or Blanket Purchase Order, guarantees any minimum quantity, value of purchases, frequency of orders or future work unless expressly stated in writing by South Gippsland Hospital.

11. Heath Share Victoria (HSV) Mandatory Clauses

11.1. Confidentiality clause

- i. *Confidentiality clause Definitions*
- ii. *Code of Practice means a code of practice as defined in, and approved under, the Privacy and Data Protection Act 2014 (Vic)*
- iii. *Confidential Information means any technical, scientific, commercial, financial or other information of, about or in any way related to, the Organisation including any information designated by the Organisation as confidential, which is disclosed, made available, communicated or delivered to the Contractor in connection with this Agreement, but excludes information:*
 - a) *which is in or which subsequently enters the public domain other than as a result of a breach of this Agreement;*
 - b) *which the Contractor can demonstrate was in its possession prior to the date of this Agreement;*
 - c) *which the Contractor can demonstrate was independently developed by the Contractor;*
 - d) *which is lawfully obtained by the Contractor from another person entitled to disclose such information; or*
 - e) *which is disclosed pursuant to legal requirement or order or pursuant to this Agreement.*
 - f) *Information Privacy Principles means the information privacy principles set out in the Privacy and Data Protection Act 2014 (Vic).*
- iv. *Organisation means the entity entering into this Agreement as defined in (refer to the section of the agreement template that has details of your health service or other contracting or legal entity).*

11.2. Confidentiality, privacy and data protection

- i. *Use of Confidential Information*
 - a) *The Contractor must (and must ensure that its employees, agents and advisers will):*
 - i. *use and reproduce Confidential Information only to perform its obligations under this Agreement; and*
 - ii. *not disclose or otherwise make available Confidential Information other than to personnel who have a need to know the information to enable the Contractor to perform its obligations under this Agreement.*
 - b) *All Confidential Information will remain the property of the Organisation and all copies or other records containing the Confidential Information (or any part of it) must be returned by the Contractor to the Organisation on termination or expiry of this Agreement.*

- c) *The Contractor accepts that the Organisation is required to supply data and information to HealthShare Victoria about their current pricing and usage volume, pursuant to legislation.*
- d) *The Contractor unconditionally waives any rights that would prevent this supply from taking place and undertakes to desist from any action to enforce such rights.*
- e) *The Contractor acknowledges that the Organisation will be entitled (in addition to any other remedy it may have) to seek an injunction or other equitable relief with respect to any actual or threatened breach by the Contractor of this <clause 1> and without the need on the part of the Organisation to prove any special damage.*

11.3. Disclosure

- i. *The Contractor hereby acknowledges and/or consents to:*
 - a) *the Organisation providing any information which the Organisation has obtained from the Contractor pursuant to the Invitation to Supply, the Offer and/or this Agreement (including financial information) to third parties for the purposes of benchmarking, monitoring, comparison or evaluation of:*
 - i. *contracts of this type; or*
 - ii. *The purchase of the Goods, with the Organisation taking reasonable steps (in its opinion) to keep such information confidential (including requiring the relevant third party to sign a confidentiality agreement) [include reference to confidentiality agreement only if the contractor demands it].*
 - b) *the Organisation (or such other public sector agency as may, from time to time, be responsible for doing so) publishing, whether on the internet or otherwise, all such information as is necessary to comply with the requirements of HSV Purchasing Policies;*
 - c) *the Organisation making available all information requested to HealthShare Victoria;*
 - d) *the Organisation making available to the Victorian Auditor-General all information that is requested by the Auditor-General;*
 - e) *the Organisation making available all information in relation to the Contractor or this Agreement as may be required to comply with its obligations under the Freedom of Information Act 1982 (Vic);*
 - f) *the Organisation making available, Confidential Information to Parliament, the Governor, Cabinet or a Parliamentary or Cabinet committee or sub-committee;*
 - g) *the Organisation making available, Confidential Information to any agency, authority, instrumentality, Minister or officer of the State to whom it is customary for the Organisation to disclose the Confidential Information (whether or not the Organisation are legally obliged to do so);*
 - h) *only being able to make public announcement in relation to this Agreement with express prior written consent of the Organisation.*

11.4. Non-disclosure of patient information

The Contractor shall ensure that its employees or agents are made aware and comply with the provisions of section 141 of the Health Services Act 1988 (Vic) and section 346 of the Mental Health Act 2014 (Vic) (where relevant) which relate to the unlawful disclosure of patient information.

11.5. Contractor Privacy

The Contractor acknowledges that it will be bound by the Information Privacy Principles and any applicable Code of Practice with respect to any act done or practice engaged in by the Contractor under or in connection with this Agreement or any Purchase Order Contract in the same way and to the same extent as the State or the Organisation would have been bound had it been directly done or engaged in by the State or the Organisation.

11.6. Indemnity

The Contractor indemnifies the Organisation in respect of any loss, liability or expense suffered or incurred by the Organisation out of or in connection with a breach of the Contractor's obligations under <clause 1>, except to the extent that the loss, liability or

expense is directly caused by a negligent or wrongful act or omission of the Organisation or any of its officers or employees.

11.7. **Supplier code of conduct clause**

i. Application of Supplier Code of Conduct

- a) The Supplier Code of Conduct (the Code) sets mandatory minimum standards that Suppliers must achieve to establish and maintain a business relationship with Victorian public entities.
- b) The action of submitting an offer or signing a contract with the Purchaser indicates that the Respondent agrees to meet the standards set out in the Code and to comply with the provisions relating to implementing and enforcing the Code.
- c) Further information can be found at: <https://www.buyingfor.vic.gov.au/supplier-code-conduct>.
- d) In assessing the Supplier's response, the Purchaser may obtain, and take into consideration, information about the Supplier's current and prior compliance with the Supplier Code of Conduct, and any similar obligations to any agency or government.

ii. Supplier code of conduct

a) Code Compliance

- i. The Supplier acknowledges that the Supplier Code of Conduct as amended from time to time applies to the Agreement and undertakes that during the Term it will comply with the Supplier Code of Conduct and all obligations under this clause (1). The Supplier Code of Conduct (as amended from time to time) is available at the Buying for Victoria website:
<https://www.buyingfor.vic.gov.au/supplier-code-conduct>.

ii. The Supplier must:

- 1) establish all necessary policies and systems to monitor compliance by the Supplier with the Supplier Code of Conduct; and
- 2) monitor its compliance with the Supplier Code of Conduct on a regular basis throughout the Term of the Agreement in accordance with the policies and systems established under paragraph (b)(i).

iii. The Supplier must promptly provide any information requested by the Purchaser related to:

- 1) the compliance by the Supplier with the Supplier Code of Conduct; and
- 2) any policies or systems established to monitor the compliance by the Supplier with the Supplier Code of Conduct

iv. The Supplier must ensure that its Personnel engaged in the performance of the Agreement:

- 1) comply with paragraphs (a) and (b)(ii) as though those requirements apply directly to them;
- 2) provide to the Supplier, on request by the Purchaser, a declaration of their compliance with the Supplier Code of Conduct, and with any policies or systems established to monitor the compliance by the Supplier with the Supplier Code of Conduct in the form required by the Purchaser from time to time; and
- 3) who have, or are suspected of having, breached the Supplier Code of Conduct do not remain engaged in the performance of the Agreement and return, or where directed by the Purchaser, destroy all of the Purchaser's Confidential Information in their possession, custody or control.
- 4) The term 'Code Compliance Event' under this clause 1 means a failure to comply with this clause.

11.8. **Code Investigations**

i. The Supplier agrees that:

- a) the Purchaser may from time-to-time conduct an investigation into the character, integrity, honesty or other aspects of compliance with the Supplier

Code of Conduct of the Supplier or any of its Personnel ('Code Investigation'), which may include:

- b) investigations into commercial structure and ownership, business and credit history, prior contract compliance or any criminal records or pending charges; and
- c) interviews of any person or research into any activity that is or might reasonably be expected to be the subject of criminal or other regulatory investigation; and
- d) if the Purchaser requests in writing that the Supplier or a third party nominated by the Purchaser must carry out the Code Investigation, the Supplier must carry out, or have carried out as requested, the investigation and provide a full report to the Purchaser; and
- e) the Supplier must procure all relevant consent from people who will be the subject of a Code Investigation.

11.9. Notice – Code Compliance Event

- i. The Supplier must immediately notify the Purchaser in writing on becoming aware that a Code Compliance Event has occurred or is likely to have occurred, describing the circumstances giving rise to the actual or likely occurrence of the Code Compliance Event, when it occurred or is likely to have occurred and any of the Supplier's Personnel involved.
- ii. Upon delivery of a notice under paragraph (a) or if the Purchaser otherwise becomes aware of a Code Compliance Event or likely Code Compliance Event, without prejudice to any other rights the Purchaser may have in relation to the Code Compliance Event, then:
 - a) the Supplier must take any action directed by the Purchaser to remedy or otherwise address the Code Compliance Event;
 - b) without limiting paragraph (b)(i), the Purchaser and the Supplier must meet within five (5) Business Days and use reasonable endeavours to agree a course of action that will be taken by the Supplier to remedy the Code Compliance Event (including timing) and to ensure that it does not reoccur; and
 - c) the Supplier must comply with any agreement made under paragraph (b)(ii) and provide any reports or other information about the Supplier's progress in implementing any agreement made under paragraph (b)(ii) as may reasonably be requested by the Purchaser from time to time.
- iii. Notice – Code Compliance Event
 - a) The occurrence of a Code Compliance Event or a breach of the above Notice – Compliance Event clause will constitute a material breach of the Agreement, and the Purchaser may, without prejudice to other remedies under the Agreement, in its sole and absolute discretion suspend or terminate the Agreement, immediately by written notice to the Supplier, upon receipt of which the Supplier must immediately cease all work under the Agreement.
 - b) The Supplier acknowledges that a failure to comply with this [clause 1] may be considered by the Purchaser and other Victorian public entities in any future approach to market or their respective procurement processes, and that such information may be shared with those Victorian public entities as detailed in cl [insert relevant cross reference].
 - c) The reasonable costs incurred by the Purchaser in connection with this clause will be a debt due and payable by the Supplier to the Purchaser on demand.
 - d) The Supplier will comply with its obligations under this clause at its cost and without any additional charge to the Purchaser.

11.10. Purchase order terms and conditions clause

- i. Supplier Code of Conduct

- a) *a. The Supplier acknowledges that the Supplier Code of Conduct (the Code) (available at <https://www.buyingfor.vic.gov.au/supplier-code-conduct>) applies to these terms and conditions and undertakes that in supplying goods or services to the Purchaser by way of a purchase order, that it will comply with the Code (as amended from time to time).*
- b) *b. The Supplier acknowledges that it has read and understood the Code.*
- c) *c. The Supplier must, in complying with the Code,*
- d) *d. establish all necessary policies and systems to monitor its compliance with the Code; and*
- e) *e. monitor its compliance with the Code on a regular basis; and*
- f) *f. promptly provide the Purchaser with any information requested related to its compliance with the Code and any policies or systems established to monitor compliance with the Code.*
- g) *g. The Supplier must immediately notify the Purchaser in writing on becoming aware of its non-compliance or likely non-compliance with the Code (Compliance Event). The Supplier agrees that a Compliance Event or breach of the Code will constitute a material breach of these terms and conditions.*

11.11. Transition clause

- i. *If HealthShare Victoria enters into a contract in respect of Goods (or Services) which may apply to all Victorian public hospitals, denominational hospitals, private-operated hospitals and/or metropolitan health services (as listed in schedules 1, 2, 4 and 5 of the Health Services Act 1988 (Vic) ("the State-wide contract"), then:*
 - a) *the Organisation may give notice to the Contractor that it wishes to purchase the Goods (or Services) on the terms and conditions of the HealthShare Victoria contract from a future specified date; and*
 - b) *this Agreement shall end on the date specified by the Organisation; and*
 - c) *the Contractor shall have no claim against the Organisation or its agents, employees, officers or servants in respect of this Agreement ending or the Organisation exercising its rights under this clause.*