

Current terms & conditions (Summary)

1. Please quote purchase order number on all invoices
 2. All materials must be in strict accordance with project drawings and specifications as scheduled
 3. All workmanship in strict accordance with relevant Australian standards, codes and guidelines
 4. All deliveries between 7:00am – 3:30pm Monday to Friday
 5. Universal reserves the right to request rectification should supplier not conform
 6. Send all correspondence to:
Accounts Department
Accounts@universalcorp.com.au
57 Yale Drive Epping Vic 3076
Ph: 03 8405 3131
 7. Payment terms are 60 days
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1. Universal Terms & conditions for Purchase of Goods and/or services**Agreement to sell goods and/or services**

The Supplier agrees to sell and the organisation agrees to buy the goods and/or services which the organisation agrees to accept, on and subject to these terms and conditions

Term of Agreement

The Agreement begins on the Commencement Date and continues until the Completion Date, unless extended in accordance with clause 20 or terminated earlier in accordance with these terms. If no Completion Date is specified, the Agreement will come to an end when all Goods have been delivered and accepted and all payments required to be made under the Agreement have been made.

A party may, by the provision of notice in writing, request the Agreement be extended beyond the Completion Date. The Agreement may only be extended for the period or periods agreed to by the parties in writing.

Supply and delivery of Goods

The Supplier must supply the Goods to the Organisation in accordance with this Agreement and any reasonable directions given by the Organisation.

The Supplier must deliver the Goods to the Delivery Point by the Time for Delivery as set out in the Purchase Order.

Acceptance of the Goods by the Organisation will not be taken to have occurred until either:

- acceptance is acknowledged in writing by the Organisation; or
- acceptance is deemed to have occurred in accordance with clause 0 below.

Each delivery must be accompanied by delivery dockets marked with the Purchase order number, product description and the quantity of goods.

Acceptance or rejection of Goods

If the Goods conform with this Agreement, the Organisation will promptly issue written notification of acceptance of the Goods. If the Organisation does not give written notification of acceptance or rejection of the Goods within 30 days of delivery, acceptance of the Goods will be deemed to have occurred on the date of delivery.

If;

The goods do not conform with this Agreement; or

The goods on delivery are damaged, unfit for purpose or not of merchantable quality,

The organisation considers any of the warranties are untrue or have been breached.

the Organisation may reject the Goods by giving written notice (including reasons for rejection) to the Supplier within 30 days of delivery. The Organisation is not obliged to pay for any rejected Goods.

The Supplier must, at its cost, collect and remove any rejected Goods as soon as practicable following notification. If the Supplier fails to collect and remove the rejected Goods within a reasonable time, the Organisation may return the Goods to the Supplier at the Supplier's expense, or, following further notification, destroy the Goods or otherwise dispose of the Goods in its discretion.

Performance of Services

The supplier must perform all services in accordance with the Purchase order, any attachment to it that is expressly incorporated in writing, and these Terms and conditions by the completion date referable to them.

Universal may in writing instruct the supplier to vary the Scope (but not the general nature) of the services. The supplier must comply with that instruction and a reasonable adjustment will be made by Universal to the Purchase price.

Pricing

The Unit Price is fixed and inclusive of all taxes (excluding GST), for the duration of the Agreement.

The Supplier may not charge the Organisation any additional fee or amount for packaging, transport, insurance, loading, unloading, storage or any other costs incurred by the Supplier in supplying or delivering the Goods to the Organisation.

Invoicing and payment

On or following acceptance of the Goods, or as otherwise specified in the Purchase Order, the Supplier must submit a valid itemized Tax invoice (containing all information required in a tax invoice for the purposes of the GST Act together with such other information as the Organisation may reasonably require) to the Organisation for the Purchase Price.

The Organisation will pay the invoiced amount less any amount required by Law within 60 days of receipt of an accurate invoice. However, if the Organisation disputes the invoiced amount, it must pay the undisputed amount (if any) and notify the Supplier of the amount in dispute.

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.

Simple interest, as at the penalty interest rate fixed for the time being under the *Penalty Interest Rates Act 1983 (Vic)*, accrues on a daily basis on any Overdue Amount and is payable by the Organisation to the Supplier on demand.

The organisation is not obliged to pay any invoice that is received by the organisation more than 90 days after the date of the delivery of the goods and/or completion of the services.

Supplier Obligations – Goods

The supplier must;

Properly carry out all testing and quality assurance procedures, and provide the organisation all test certificates, required by the order or as otherwise requested by the organisation

Properly pack and protect the goods to prevent damage during transit and upon delivery

Ensure that all packaging, labelling and transport of the goods complies with all the laws of any relevant jurisdiction, and where applicable, with relevant Australian and other recognized standards

Ensure that the goods (and each sub-package of the goods) are clearly addressed to the delivery point and that each sub-package is marked with the product description and quantity of the goods contained there in

Enclose one copy of the packing list within each package of the goods

Clearly state whether any goods contain asbestos or other hazardous substances and, prior to or with the delivery of any such goods, provide Material safety data sheets in respect of such goods to the organisation and;

On reasonable notice provide and procure for the organisation (and any of its representatives) full access to all premises and locations to allow the organisation to inspect the goods at any time prior to their delivery.

Supplier Obligations – Services

The supplier must;

Perform the services;

At the services location;

In a competent, proper and workmanlike manner in accordance with good industry practice;

Exercising a reasonable standard of skill, diligence, knowledge, judgement and care;

In a manner that is safe to both people and the environment assessed against the higher of industry best practice and legislative requirements;

Using its best endeavours so as not to interfere with any activities of any other person at any of the Organisations premises or the services location; and

So as to minimise delays in the performance of the services;

Supply and maintain, at its own cost, everything the supplier requires in order to provide the services in accordance with the Order including all personnel, goods, materials and authorizations;

Where the Supplier provides the services through its employees, agents or permitted sub-contractors, ensure that such personnel are suitably qualified and competent;

Ensure that all equipment used by the supplier in performing the services is maintained in a reasonable condition and complies with and is used in accordance with all relevant laws, regulations and other governmental requirements; and Pay all of the Suppliers employees and sub-contractors on time.
The supplier must notify the Organisation on completion of the services.

Supplier Obligation – General

The Supplier must (and must ensure that its officers, employees, agents and contractors), in relation to the provision of the Services and the supply of goods, at the Suppliers cost;
Provide the Organisation with all reasonably requested information;
Comply with all the Organisations health, safety and environmental policies made available to the Supplier at the time;
Comply with all applicable laws, regulations and other governmental requirements;
Comply with all reasonable directions and requirements of the Organisation (including all site conditions made available by the organisation);
Remedy any environmental damage or degradation resulting from the suppliers actions or omissions;
Take reasonable care to protect against damage or loss to all property on the Services location or the Organisations premises and comply with the Organisations reasonable requirements relating to the protection of such property;
Maintain and make available to the Organisation sufficient records to enable the Organisation to verify all invoices; and
Ensure that the warranties are and remain true and correct at all times.
The Supplier is responsible for all acts or omissions of the Suppliers officers, employees, agents and contractors in relation to the provision of the services and supply of the goods.

Title and risk

Title in the Goods will pass to the Organisation upon acceptance of the Goods. Risk in the Goods will pass to the Organisation when the Goods are delivered to the Delivery Point.

Warranties

The Supplier represents and warrants to the Organisation that:
(**Capacity**) it has the right to enter into the Agreement and perform the Services;
(**Title**) it has the right to sell, and transfer title to and property in, the Goods to the Organisation;
(**IP**) it is entitled to use and deal with any Intellectual Property Rights which may be used by it in connection with the Goods;
(**Conflict**) it and its Personnel 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 created in conflict with or might appear to be created in conflict with its obligations under this Agreement; and
(**Trust**) it has not entered into the Agreement on behalf of a trust; and
(**Goods**) the Goods:
are new and fit for the purpose stated in the Purchase Order (or, if no purpose is stated, the purpose for which the Goods would ordinarily be used);
conform in all respects with this Agreement;
are free from defects (including defects in installation); and
are of merchantable quality and comply with all Laws.
If provided for in the Purchase Order, the Supplier must obtain the benefit of any manufacturer's warranties for the Organisation.

Intellectual Property Rights

If the supplier is manufacturing or procuring the manufacture of the goods and the goods are required to or fabricated to the Organisations specifications or special requirements (and are not goods of the type ordinarily manufactured by the supplier (or the suppliers subcontractors) the Organisation will be entitled to own all intellectual property rights of any kind that arise as a result of, or in the course of, the design or manufacture of the goods

If the services are required to be performed to the Organisations specifications or special requirements the Organisation will be entitled to all intellectual property rights of any kind that arise as a result of, or in the course of, the performance of the services.

The supplier warrants that the supply of the services and goods to the organisation, the use of the goods by the organisation or any resale of the goods by the organisation will not infringe the intellectual property rights of any person and the organisation will not have to pay any licence fee, royalty or any other amount to any person in connection with the services or goods.

Data

Data will remain (and, if necessary, will become) the property of the Organisation. The Supplier will assign to the Organisation from the date of creation all Intellectual Property Rights in any data created by or on behalf of the Supplier. The Supplier must only use the Data to the extent necessary to perform its obligations under this Agreement.

Liability

The Supplier indemnifies, and will at all times keep the Organisation and each of its Personnel indemnified, against any liabilities, losses, damages, costs and expenses (including all legal and settlement costs determined on a full indemnity basis) or compensation arising out of, or in any way in connection with, any:

personal injury, including sickness and death;

property damage;

breach of an obligation of confidence or privacy, whether under this Agreement or otherwise;

fraudulent acts or omissions;

wilful misconduct or unlawful act or omission;

breaches of logical or physical security;

loss or corruption of Data;

third party claim arising out of a breach of the Agreement by the Supplier or its Personnel (including breach of warranty) or any negligent act or omission of the Supplier or its Personnel; or

infringement or alleged infringement of the Intellectual Property Rights or any other rights of any person, including any third party,

which was caused, or contributed to by, any act or omission by the Supplier or any of its Personnel.

The Supplier's liability to indemnify the Organisation under clause 050 is reduced to the extent that any wilful, unlawful or negligent act or omission by the Organisation or its Personnel contributed to the liability, loss, damage, cost, expense or compensation.

To the extent that the indemnity in clause 150 refers to persons other than the Organisation, the Organisation holds this clause on trust for those other persons.

Termination

The Organisation may terminate the Agreement with immediate effect (or with effect from a specified date) by giving notice in writing to the Supplier if the Supplier:

fails to provide the Goods in accordance with the Agreement;

breaches any provision of the Agreement and, where that breach is capable of remedy, fails to remedy the breach within 10 Business Days after receiving written notice requiring it to do so (or such later date as may be specified in that notice);

breaches any provision of the Agreement that is not capable of remedy;

or any of its Personnel involved in the supply of the Goods commits fraud, dishonesty or any other serious misconduct;

commits any act or does anything that may be prejudicial or otherwise detrimental to the reputation of the Organisation; or suffers from an Insolvency Event.

The Organisation may terminate the Agreement without cause on notice to the Supplier.

If the Agreement is terminated pursuant to clause 160, the Organisation will pay the Supplier:

for the Goods delivered in accordance with the Agreement up to the date of the termination; and

the unavoidable and substantiated costs incurred by the Supplier as a direct result of the termination, excluding any loss of profit,

and the Organisation has no other liability to the Supplier in relation to that termination.

When the Organisation issues a notice under clause 160, the Supplier will immediately comply with any directions given in the notice and do all that is possible to mitigate its losses arising from the termination of the Agreement.

The Supplier may terminate the Agreement by giving at least 20 Business Days written notice to the Organisation if the Organisation fails to pay amounts due under this Agreement.

Termination or expiry of this Agreement will not prejudice any right of action or remedy which may have accrued to either party prior to termination or expiry.

On termination or expiry the Supplier must immediately, following instructions by the Organisation, cease using all materials that contain any Data or Confidential Information by either destroying the materials or returning the materials at no additional cost to the Organisation.

Insurance

The Supplier must obtain and maintain insurance cover, at the time of delivery of the Goods and, if requested by the Organisation, for a period of up to 7 years after the Goods are delivered, sufficient to cover any loss or costs that may be incurred and for which the Supplier may be liable in connection with the Agreement, including product liability insurance to the value specified in the Purchase Order or, if no value is specified, to the value sufficient to cover any loss or costs that may be incurred, and, if applicable, public liability insurance. Product liability insurance must be maintained for the longer of any warranty period and three years from acceptance of the Goods.

On request, the Supplier must, within 10 Business Days, provide the Organisation with evidence of the currency of any insurance it is required to obtain.

Access

When at the Organisation's premises, the Supplier must, and must ensure that its Personnel:

protect people and property;

prevent nuisance;

act in a safe and lawful manner;

comply with the safety standards and policies of the Organisation (as notified to the Supplier); and

comply with any lawful directions of the Organisation or its Personnel.

Sub-contracting

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 Organisation (which may be given conditionally or withheld in its absolute discretion).

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.

GST

The terms used in this clause have the same meanings given to them in the GST Act.

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with the Agreement are exclusive of GST.

If GST is imposed on any supply made under or in accordance with the Agreement, the recipient of the taxable supply must pay to the party making the taxable supply an amount equal to the GST payable on or for the taxable supply. Subject to the recipient first receiving a valid tax invoice, payment of the GST amount will be made at the same time the consideration for the taxable supply is to be paid or provided in accordance with the Agreement.

Dispute Resolution

If any dispute arises under or in connection with this Agreement (**Dispute**), either party may at any time give written notice to the other (**Dispute Notice**) requesting that a meeting take place to seek to resolve the Dispute in good faith.

If the Dispute is not resolved in 15 Business Days it will be referred to mediation (**Mediation**) conducted by the Australian Disputes Centre (**ADC**) in accordance with the ADC mediation guidelines (**Guidelines**) with each party bearing their own cost.

If the parties fail to settle the Dispute at Mediation, the parties may agree to submit the dispute for resolution to final and binding arbitration.

The parties will continue to perform their respective obligations under this Agreement pending the resolution of a Dispute

General

The Agreement is governed by and is to be construed in accordance with the Laws. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of Victoria 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.

These terms & conditions are applicable to the supply of goods and/or services pursuant to Purchase orders issued by Universal to the supplier.

Upon the supplier agreeing to supply Universal the goods and/or services specified in a Purchase order, the supplier shall be bound to supply the goods and/or services to Universal in accordance with the terms & conditions.

They are to be read as in addition to any terms specified by Universal in the Purchase Order and/or any attachment to it that is expressly incorporated in writing. No other terms or conditions apply to this Purchase order or to the Goods and/or services under any circumstances where;

Universal first provides its agreement in writing

These terms are replaced by a longer form agreement on Universal's terms and conditions in which case the terms of that agreement will apply between the parties

No amendments to these terms and conditions will be binding on the parties unless approved in writing by a Universal representative with the actual delegated authority to approve any such amendments as notified by Universal from time to time.

Time is of the essence in relation to the supply of the Goods.

Notwithstanding any other clause contained in these Purchase order terms and conditions, Universal has no obligation of any kind to purchase any or a minimum amount of goods or services (as the case may be).

The Agreement may only be varied or replaced by a written document executed by the parties.

A waiver of any right, power or remedy under the Agreement must be in writing and signed by the party granting it. The fact that a party fails to do, or delays in doing, something the party is entitled to do under the Agreement does not amount to a waiver.

Any provision of the Agreement which is invalid or unenforceable is to be read down, if possible, so as to be valid and enforceable, and, if that is not possible, the provision will, to the extent that it is capable, be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions.

The Organisation may set off against any sum owing to the Supplier under the Agreement any amount then owing by the Supplier to the Organisation.

Subject to clause 22(h) a party may not assign any right under the Agreement without the prior written consent of the other party. The Supplier will be responsible for acts and omissions of any assignee.

Entire understanding and order for precedence

In the event and to the extent of any inconsistency between these General Conditions for the supply of goods and the Purchase Order, the General conditions will prevail to the extent of the inconsistency. If the inconsistency remains incapable of resolution by reading down, the inconsistent provisions will be severed from the Purchase Order without otherwise diminishing the enforceability of the remaining provisions of the Purchase Order.

This Agreement contains everything the parties have agreed in relation to the Goods. No party can rely on an earlier written document or anything said or done by or on behalf of another party before this Agreement was executed.

Survival

Clauses of this Agreement survive the termination or expiry of this Agreement or the completion of the provision of Goods and may be enforced at any time.

UNIVERSAL[®] CORPORATION

Definitions

In this Agreement, unless the context otherwise requires:

Agreement means the agreement for the supply of the Goods consisting of these General conditions for the supply of goods and the Purchase Order.

Business Day means a day which is not a Saturday, Sunday or public holiday (being a public holiday appointed as such under the *Public Holidays Act 1993* (Vic) in Melbourne.

Code of Practice means a code of practice as defined in, and approved under, the *Privacy and Data Protection Act 2014* (Vic).

Completion Date means the date by which the goods should be delivered by the Supplier, as specified in the Purchase Order.

Commencement Date means the date on which the supply of the Goods will commence, as specified in the Purchase Order.

Data means all data, information, text, drawings, statistics, analysis and other materials embodied in any form which is:

(a) supplied by or on behalf of the Organisation in connection with this Agreement (**Input Data**); or generated, placed, stored, processed, retrieved, printed, accessed or produced utilising the Input Data or the Goods.

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

Goods means the goods specified in the Purchase Order and as provided under this Agreement.

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

Insolvency Event means, in relation to the Supplier, any of the following:

- (a) anything that reasonably indicates that there is a significant risk that the Supplier is or will become unable to pay debts as they fall due; a step being taken to have a receiver, receiver and manager, liquidator or provisional liquidator appointed to the Supplier or any of its assets; or the Supplier ceasing, or indicating that it is about to cease, carrying on business.

Intellectual Property Rights means all intellectual property rights at any time recognised by law, including all present and future copyright, all proprietary rights in relation to inventions (including patents), registered and unregistered trademarks, 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:

- (a) any statute, regulation or subordinate legislation of the Commonwealth of Australia, the State or local or other government in force in the State of Victoria, irrespective of where enacted; and lawful requirements of any government or government department or other body or a governmental, semi-governmental, judicial, municipal, statutory or public entity or authority (including a statutory authority or a State-owned enterprise), a self-regulatory authority established under statute or a stock exchange (wherever created or located) or a person (whether autonomous or not) who is charged with the administration of a law.

Organisation means the Company entity specified in the order (or, where the business name is specified, the company entity that carries on business under that business name) and, where more than one company entity is party to the order, includes all or any of them as appropriate.

Overdue Amount means an amount (or part thereof) that:

- (a) is not, or is no longer, disputed;

is due and owing under a tax invoice properly rendered by the Supplier in accordance with this Agreement; and which has been outstanding for more than 60 days from the date of receipt of the invoice (or the date that the amount ceased to be disputed, as the case may be).

Personnel of a party includes the officers, employees, agents, contractors and sub-contractors of that party.

Purchase Order means any form of order or purchase issued by the Organisation for the supply of the Goods, made under or incorporating these General conditions for the supply of goods.

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

Supplier means the entity supplying the Goods under the Agreement.

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 the Goods must be delivered by the Supplier.

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

Interpretation

Unless expressed to the contrary, in this Agreement:

words in the singular include the plural and vice versa;

any gender includes the other genders;

if a word or phrase is defined its other grammatical forms have corresponding meanings;

'includes' and 'including' are not words of limitation;

no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;

the obligations of the Supplier, if more than one person, under the Agreement are joint and several and each person constituting the Supplier acknowledges and agrees that it will be causally responsible for the acts and omissions, including breaches of the Agreement, of the other as if those acts or omissions were its own;

the rights of the Supplier, if more than one person, under the Agreement, including the right to payment, jointly benefit each person constituting the Supplier (and not severally or jointly and severally); and

a reference to:

a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;

a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;

any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision; and

a party or parties is a reference to the Organisation and the Supplier (as the case requires).