

1. Definitions and interpretations

In these terms and conditions:

- 1.1. **Australian Consumer Law** or **ACL** has the meaning it is given in the *Competition and Consumer Act 2010* (Cth).
- 1.2. **G&S** means the goods and/or services specified in the Purchase Order.
- 1.3. **Purchase Order** means SCG's offer to purchase G&S from the supplier, to which these terms form a part.
- 1.4. **Supplier** means the party named as the supplier of the G&S in the Purchase Order.
- 1.5. **SCG** means Silver Chain Group Ltd (ACN 077 082 725) either in its own right or on behalf of its subsidiaries and related body corporates and includes its successors and assigns.
- 1.6. **Terms** means these terms and conditions.
- 1.7. **Working Validations** mean all applicable registrations, licences, clearance checks, statutory declarations, and screenings mandated by legislation.

2. Terms of contract

- 2.1. Unless SCG and the Supplier have a signed written agreement to the contrary, these Terms will apply to any Purchase Orders issued by SCG.
- 2.2. Any conditions of sale appearing on any document of the Supplier will be of no legal effect and will not constitute part of the contract between the Supplier and SCG in respect of the G&S.
- 2.3. If SCG wishes to purchase goods and services from the supplier, it will send a Purchase Order to the supplier via email or Procure-To-Pay software pursuant to these Terms.
- 2.4. If the Supplier is unwilling or unable to supply or perform some or all of the G&S specified in the Purchase Order, or if the Supplier wishes to amend some or all of these Terms prior to supplying or performing the G&S, the Supplier must advise SCG as soon as possible, and no later than 4pm (AWST) on the day following the date of the Purchase Order.
- 2.5. If SCG agrees to any proposed amendments pursuant to clause 2.4,

SCG will re-issue an amended Purchase Order.

- 2.6. Without limiting any other lawful method of acceptance, performance or part performance or supply of the G&S by the supplier is deemed to be acceptance by the Supplier of these Terms.
- 2.7. If there is any inconsistency between (a) these Terms and (b) another written agreement between the parties (including any special terms in a Purchase Order), the latter will prevail to the extent of the inconsistency unless specifically expressed otherwise.

3. Supply of goods and services

- 3.1. The Supplier must provide the G&S in accordance with the Purchase Order and these Terms.
- 3.2. SCG may reject any G&S that do not materially comply with these Terms. Without prejudice to SCG's rights otherwise arising under these Terms or at law, if SCG rejects any G&S, the Supplier must, at SCG's election either replace, without further cost to SCG, the rejected G&S with G&S that comply with these Terms or refund any payment for the rejected G&S.
- 3.3. The Supplier must ensure that:
 - (a) it complies with all legislation (including the *Migration Act 1958* (Cth)) in respect of all personnel carrying out services; and
 - (b) all personnel have a right to work in Australia and are not required to, and do not, work in conflict with any visa requirements.
- 3.4. The Supplier must comply with any applicable labour hire licensing laws including any obligations as a provider of labour hire services under those laws. The supplier must provide all reasonable documentation on request. SCG may immediately suspend or terminate the Supplier's engagement if there is a failure to comply with these laws.

4. Client services

- 4.1. If some or all of the G&S will be supplied to or performed for the direct benefit of a SCG client, the supplier acknowledges that the Australian consumer law may apply to the provision of those G&S.

- 4.2.** Where SCG is a 'consumer' under the ACL, the following mandatory wording applies:

The Supplier's goods and services come with guarantees that cannot be excluded under the ACL. For major failures with the service, SCG is entitled:

- (a) to cancel its service contract with the supplier; and
- (b) to a refund for the unused portion, or to compensation for its reduced value.

SCG is also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, SCG is entitled to have the failure rectified in a reasonable time. If this is not done SCG is entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. SCG is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

- 4.3.** If a SCG client attempts to order G&S directly from the Supplier and specifies that SCG will pay for the G&S, the Supplier must contact SCG. SCG is not liable to pay the Supplier for G&S ordered by a SCG client unless a valid Purchase Order has been provided under clause 2.3.

5. Compliance with laws and policies

- 5.1.** The Supplier must comply with all reasonable and lawful SCG policies communicated by SCG to the Supplier and all reasonable and lawful directions given to the Supplier by SCG representatives.
- 5.2.** The Supplier must comply with all applicable laws and regulations governing the supply of the G&S including laws specifying safe working practices. Suppliers providing on site services may be required to undergo site induction.
- 5.3.** The Supplier must comply with any laws in force from time to time in the relevant state related to COVID-19 vaccinations for the duration of the services and, where relevant, provide evidence to

SCG of such compliance promptly upon request.

- 5.4.** If the Supplier is the subject of a request, court order or other directive of a government agency to recall or withdraw any goods from the market, or believes there are grounds under the ACL to recall or withdraw any goods, the Supplier must immediately notify SCG in writing.

6. Working Validations

- 6.1.** Where the Supplier's personnel will enter the home or premises of a SCG client to provide G&S or SCG's premises, the Supplier must ensure that all of its workers providing G&S pursuant to the Purchase Order have:
- 6.2.** All applicable Working Validations including, but not limited to:
- (a) a national police certificate that is dated not more than 3 years before the date of these Terms; and does not record that the person has been convicted of murder or sexual assault, convicted of, and sentenced to imprisonment for any other form of assault or convicted for theft, fraud or dishonesty; or
 - (b) a valid NDIS worker screening clearance that is dated not more than 5 years before the date of these Terms; and
- 6.3.** if any of the Supplier's personnel has been a permanent resident or citizen of another country since the age of 16 years, the Supplier must ensure that the personnel sign a statutory declaration affirming that they have not been convicted of any of the offences identified in clause 6.1(a).

7. Warranties

The Supplier warrants that:

- 7.1.** The G&S will be provided in a professional manner, be fit for the purpose for which G&S of the same kind are commonly supplied, meet applicable Australian Standards, be performed with skill and care, be in conformity with industry, legislative and regulatory standards (including but not limited to the Aged Care Quality Standards) and

instructions provided by SCG (or if applicable, a SCG client) and be of a high quality and workmanship.

- 7.2. Any goods supplied come with clear title and a right to undisturbed possession and (except consumables) will have spare parts and repairs available for a reasonable amount of time after purchase.
- 7.3. There are no restrictions which prevent it supplying the G&S and it will not infringe the intellectual property rights of any party by supplying the G&S.
- 7.4. Its personnel are registered, licensed, qualified and appropriately trained to supply the G&S, understand and are aware of occupational health and safety laws (OH&S laws) and agree to that its personnel will, at all times, comply with the OH&S laws, while engaged by SCG.

8. Indemnities

- 8.1. Except to the extent caused or contributed to by SCG, the Supplier indemnifies SCG against all direct loss, damage, expense, legal costs and claims arising out of:
 - (a) Any fault with the G&S caused, or contributed to, by the supplier;
 - (b) Any negligent or unlawful act of the Supplier or its directors, officers, agents, delegates, suppliers or employees in any way relating to the Purchase Order;
 - (c) Any action or claim for alleged infringement of any intellectual property rights related to the G&S;
 - (d) Any misuse or unauthorised disclosure of personal information arising under the *Privacy Act 1988* (Cth); and
 - (e) Any material or persistent breach of these terms.
- 8.2. This clause 8 survives termination or expiry of these terms.

9. Insurance

- 9.1. The Supplier must at its own cost maintain, and on request provide evidence to SCG, of workers compensation insurance (unless the Supplier is a sole trader or partnership), public and products liability insurance in

the amount of not less than \$5 million dollars in respect of any one claim and any other policies of insurance in a quantum reasonably required in the circumstances to cover any and all potential claims arising out of, or concerning, the performance of the Supplier's obligations under the Purchase Order.

10. Privacy and confidentiality

- 10.1. Each party agrees to comply with its obligations under the Privacy Act 1988 (Cth) (Act) and to immediately notify the other party of any use or disclosure of information which might cause the other party to be in breach of the Act.
- 10.2. Any information provided by one party to the other party that the receiving party knows, or ought to know is confidential, or which is otherwise marked as confidential, must not be disclosed by the receiving party to any third party without the providing party's prior written consent.
- 10.3. This clause 10 survives termination or expiry of these Terms.

11. Payment and tax

- 11.1. If GST is imposed on any supply made by the Supplier pursuant to the Purchase Order, the Supplier may recover from SCG, an amount equal to the GST payable in respect of that supply.
- 11.2. The Supplier warrants that it has an Australian Business Number and is registered for GST purposes.
- 11.3. Tax invoices must be sent to invoices@silverchain.org.au (unless otherwise advised in writing) within 30 days of the last date on which the G&S are delivered or performed. Tax invoices must specify the G&S supplied, the SCG entity to whom the G&S were supplied, the name of the SCG employee that placed the Purchase Order and, where applicable, the name and SCG personal identification number of the SCG client the G&S relate to.
- 11.4. Provided that the Supplier has complied with all of the terms, SCG will pay the Supplier for the G&S within 30 days of the end of the month in which a valid tax

invoice that meets the requirements of clause 11.3 above is raised.

- 11.5. SCG is not liable to pay for any G&S invoiced more than 90 days after the last date on which the G&S were delivered or performed.
- 11.6. SCG may reduce any payment due to the Supplier by any amount that the Supplier is liable to pay SCG.

12. General

- 12.1. SCG may at its own cost conduct random audits of the performance of the Supplier's obligations to ensure compliance with these Terms.
- 12.2. Either party may terminate the Purchase Order for convenience by giving the other party 14 days' notice in writing. SCG will only be liable to pay the Supplier for G&S delivered pursuant to the Purchase Order prior to termination.
- 12.3. Risk and title in goods (free of all encumbrances and interests) pass upon delivery.
- 12.4. The Supplier must comply with any reporting requirements reasonably requested by SCG in relation to the G&S.
- 12.5. The Supplier must not, without the prior written approval of SCG subcontract the performance of any of the services and SCG's approval to subcontract does not relieve the supplier from any liability or obligation of the Supplier pursuant to these terms.
- 12.6. The Supplier has no authority to bind SCG in any respect nor to incur any liability or make any commitment on behalf of SCG.
- 12.7. The Supplier and any sub-contractors consented to by SCG are at all times independent contractors and are not employees, agents or partners of SCG.
- 12.8. An amendment or variation to these Terms is not effective unless it is agreed in writing (including by email) between the parties.
- 12.9. The obligations in these Terms of a party giving written notice to the other party are suspended to the extent to which they are affected by an event (force majeure event) which is outside of the reasonable control of that party for as long as the force majeure event continues.
- 12.10. If any part of these Terms is or becomes invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining Terms shall not in any way be affected or impaired.
- 12.11. The law of the State in which the G&S will be supplied shall govern this transaction and if the G&S will be supplied in multiple States, the law of Western Australia shall apply.
- 12.12. Any notice to be given by one party to the other under the Purchase Order must be in writing. Notices to SCG must be sent to procurement@silverchain.org.au
Notices to the Supplier must be sent to the Supplier's email or physical address set out in the Purchase Order.