

Purchase Order – Contract Terms & Conditions

1. Contract information

1. NHVR will issue a Purchase Order which is an offer to the Supplier.
2. The Supplier can accept this Contract by notifying NHVR of its acceptance, or by supplying all or part of the Goods or Services in the Purchase Order to NHVR.

2. Scope

1. The Supplier will supply, and NHVR will acquire and pay for, the Goods and/or Services in accordance with this Contract.

3. Supply of goods

1. The Supplier will:
 - a. pack the Goods so as to ensure their secure and safe delivery
 - b. deliver the Goods to NHVR at the Delivery Point by the Delivery Date
 - c. deliver with the Goods any documentation (including manuals and installation instructions) required to enable the Goods to be used by NHVR.
2. Until an authorised officer of NHVR accepts delivery by signing a receipt for the Goods, risk of loss or damage to the Goods remains with the Supplier.
3. Title in the Goods passes to NHVR upon delivery for the Goods.

4. Supply of services

1. The Supplier will supply the Services punctually and with due care, skill and diligence, and otherwise in the manner NHVR reasonably requires.
2. The Supplier warrants that it has the necessary skills, qualifications, admissions and expertise to perform the Services in accordance with the Contract.
3. Unless otherwise agreed, the Supplier will provide all equipment, personnel, and other resources the Supplier requires to perform the Services.

5. Price and payment

1. Unless otherwise stated in the Purchase Order, the Price includes all expenses, taxes, duties and charges including GST.
2. The Supplier may invoice NHVR within seven days after delivery of the Goods or completion of the Services. All invoices must:

- a. be a proper tax invoice
 - b. include the Purchase Order number
 - c. properly identify the Goods and Services the subject of the invoice
 - d. specify the amount due for payment in accordance with the Contract.
3. NHVR will pay invoices within 30 days after receipt of a correctly rendered invoice.
 4. NHVR is not liable to pay for Goods or Services which NHVR reasonably determines as not being supplied in accordance with this Contract.
 5. Where NHVR queries or disputes an amount in an invoice, NHVR does not have to pay the relevant portion of the invoice until the query or dispute is resolved.

6. Quality

1. Where the Goods or Services are Defective, NHVR may, without prejudice to NHVR's other rights and remedies, at its option:
 - a. reject the Goods or Services
 - b. require the Supplier to re-supply the Goods or Services
 - c. accept the Goods or Services on terms acceptable to NHVR (e.g. a reasonable reduction to the Price).
2. The Supplier will promptly collect any rejected Goods from NHVR and refund all amounts paid by NHVR in respect of rejected Goods or Services.

7. NHVR property

1. NHVR Property remains the property of NHVR.
2. The Supplier will not use or modify NHVR Property except in the proper performance of this Contract.
3. The Supplier will take reasonable care of NHVR Property and hand over to NHVR any NHVR Property when it is no longer required by the Supplier or in any case within seven days of a request by NHVR.

8. Intellectual property

1. The Supplier retains its intellectual property rights in Existing Material.
2. Intellectual property rights in New Material are immediately assigned to and vest in NHVR.

3. The Supplier is licensed to exercise the intellectual property rights in New Material for the purpose of performing this Contract.

9. Confidentiality

1. The Supplier must treat as confidential all information provided by or obtained from NHVR in relation to this Contract, and not disclose this information to any person except:
 - a. to its personnel and advisors on a need to know basis
 - b. with NHVR consent
 - c. if required by law
 - d. if it is in the public domain, other than due to a breach of this Contract or other obligation of confidentiality.

10. Warranty

1. The Supplier warrants that:
 - a. during the Warranty Period the Goods are not Defective
 - b. the Goods are new and have not been previously used
 - c. at the time title in the Goods passes to NHVR, the Goods are free from all liens, charges and encumbrances
 - d. use of Goods or Materials by NHVR will not infringe another person's intellectual property rights
 - e. the Goods comply with applicable laws.
2. Without limiting clause 6, if the Goods are Defective during the Warranty Period NHVR may advise the Supplier of the Defect and the Supplier will arrange for the repair or replacement of the Goods at no cost to NHVR.

11. WHS Legislation

1. As soon as practicable, the Supplier must report to NHVR the following if it occurs in relation to the supply of Goods or Services under this Contract:
 - a. any breach of the WHS Legislation
 - b. any notifiable incident under the WHS Legislation.

2. The Supplier must reasonably consult, cooperate and coordinate activities with the NHVR in relation to any matters under the WHS Legislation, including where there are mutual obligations.
3. Unless NHVR notifies the Supplier otherwise, when carrying out the Services, the Supplier is a PCBU responsible for management or control of the workplace under Part 2, Division 3, section 20 of the *Work Health and Safety Act 2011* (Qld).

12. Indemnity

1. The Supplier indemnifies and will defend NHVR against all claims, liabilities, losses, damages, costs and expenses made or awarded against, or suffered or incurred by, NHVR arising from or incurred in connection with a breach of this Contract, or negligence relevant to this Contract, by the Supplier.
2. In conducting a claim, suit or action in respect of which the Supplier indemnifies NHVR, the Supplier will comply with the reasonable directions of NHVR.

13. Statutory warranty

1. Supplier Goods come with guarantees that cannot be excluded under Australian Consumer Law. Without limiting clauses 9 and 11, NHVR is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. NHVR is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

14. Insurance

1. The Supplier must:
 - a. hold such insurance policies as are reasonably appropriate for the conduct of the Supplier's business
 - b. provide a copy of the certificate of currency for those policies to NHVR on request.

15. Changes and cancellation

1. NHVR may cancel a Contract for Goods by notifying the Supplier prior to the delivery of the Goods. NHVR may change, suspend or cancel a Contract for Services by notifying the Supplier.

2. Where NHVR:
 - a. changes the Services, the Price will be subject to a reasonable adjustment
 - b. suspends the Services, payment will be suspended until NHVR notifies the Supplier to resume the Services
 - c. cancels the Services after the Supplier has commenced performing them, NHVR will pay the Supplier a reasonable price for the Services performed and reimbursement for reasonable expenses incurred as a result of cancellation (which collectively, together with any amounts already paid, will not exceed the Price).

16. General

1. The Supplier will:
 - a. not assign its rights under this Contract without the prior consent of NHVR;
 - b. comply with applicable laws and standards (including Privacy Laws) and, when on NHVR premises, comply with all NHVR policies; and
 - c. cooperate with NHVR and comply with any reasonable direction given by NHVR in relation to the supply of Goods or Services or any other matter that is relevant to the Contract.
2. If the Supplier becomes aware of a matter which is likely to affect the ability of the Supplier to perform this Contract, it will immediately notify NHVR of it.
3. NHVR may set off money due to NHVR from the Supplier, or damages, costs or expenses recoverable by NHVR from the Supplier, against money due to the Supplier under this Contract or another contract between the parties.
4. If any part of this Contract is or becomes illegal, void or unenforceable, this does not invalidate the rest of this Contract.
5. Clauses 6 to 13 will survive the cancellation or completion of this Contract.
6. Subject to clause 13, this Contract constitutes the entire agreement between NHVR and the Supplier in relation to its subject matter. Any terms printed on the Supplier's invoice or other documentation do not apply.
7. This Contract is governed by and construed in accordance with Queensland law and the parties submit to the jurisdiction of the Courts of Queensland.
8. This Contract may only be varied by a document signed by each party.

9. Failure or omission by a party to require strict or timely compliance with any provision of this Contract will not affect any right of that party to remedies it may have in respect of any breach of a provision.
10. The Supplier may not subcontract its obligations without NHVR consent.
11. The Supplier's appointment is non-exclusive, so NHVR may acquire similar Goods or Services from other persons or perform similar Services itself.
12. A party may terminate this Contract if the other party breaches this Contract and that breach is not remedied within seven days of notification of the breach.
13. The Supplier is an independent contractor to NHVR and is not an employee, agent, partner or otherwise have any authority to bind or represent NHVR.

17. Interpretation

1. In this Contract:
 - a. clause headings are inserted for convenience only and do not affect interpretation
 - b. to the extent of any inconsistency between these clauses and the details or additional terms in the Purchase Order, the Purchase Order details and terms prevail
 - c. if the Purchase Order refers to a Supplier's quote, that quote applies to the extent that it contains Specifications only
 - d. 'includes' in any form is not a word of limitation
 - e. the Price is in Australian currency and any payment is to be made in Australian dollars.
2. In this Contract the following terms have the following meanings:
 - a. **Contract** means the details on the Purchase Order issued to and accepted by the Supplier and the clauses in these contract terms and conditions.
 - b. **Defect** means that the Goods or Services, either:
 - i. do not conform to the Specifications
 - ii. have an error, defect or malfunction
 - iii. are not fit for the purpose made known by NHVR or are not of acceptable quality as that term is defined in section 54 of the Australian Consumer Law
 - iv. do not conform with the description or a sample or test item provided by the Supplier
 - v. otherwise do not comply with the requirements of this Contract.

- c. **Defective** means the Goods or Services have a Defect.
- d. **Delivery Date** means the delivery date specified in the Purchase Order or, if no date is specified, a reasonable time after the date of this Contract.
- e. **Delivery Point** means The location specified in the 'Deliver To' section of the Purchase Order or as otherwise notified by NHVR.
- f. **Existing Material** means Material, other than New Material, which is either:
- incorporated in the New Material by or on behalf of the Supplier
 - supplied or required to be supplied under this Contract by the Supplier.
- g. **Goods** means the goods specified in the Purchase Order.
- h. **Material** includes tangible and intangible information, documents, reports, software, inventions, data and other materials in any media.
- i. **New Material** means Material that is created, developed or otherwise bought into existence by or on behalf of the Supplier in the course of this Contract.
- j. **NHVR Property** means any equipment, property, data or information of NHVR made available to the Supplier or its personnel in relation to this Contract.
- k. **Purchase Order** means a purchase order issued to the Supplier by NHVR.
- l. **Price** means the price specified in the Purchase Order, or such other price as the parties agree in writing.
- m. **Privacy Laws** means the Information Privacy Act 2009 (Qld), the Privacy Act 1988 (Cth) and any NHVR policies relating to personal information collected by or on behalf of NHVR.
- n. **Services** means the service specified in the Purchase Order.
- o. **Specifications** means:
- specifications in these clauses
 - specifications in, or referred to in, the Purchase Order
 - documentation provided under clause 3
 - the current specifications published generally by the manufacturer of the Goods.
- To the extent of any inconsistency between specifications, the specifications listed earlier in this definition prevail over those listed later.
- p. **Supplier** means the person identified in the Purchase Order as the supplier.
- q. **Warranty Period** means the period commencing on delivery of the Goods to NHVR and continuing for the period of 12 months or such longer period specified in the Purchase Order.
- r. **WHS Legislation** means the Work Health and Safety Act 2011 (Qld) and the Work Health and Safety Regulation 2011 (Qld), any relevant codes of practice, guidelines and advisory standards.