

1. Contract

1.1 A Purchase Order issued by AnglicareSA to the Supplier constitutes a request by AnglicareSA for the Supplier to supply the Supplies described in the Purchase Order, subject to the terms and conditions set out in the Purchase Order and these Conditions; and as modified by any Supplementary Conditions otherwise incorporated in the Purchase Order (the Offer).

1.2 A contract is formed between AnglicareSA and the Supplier when the Supplier confirms acceptance, implies acceptance, or dispatches, and/or commences performance of the Supplies (the Acceptance).

1.3 The terms and conditions set out in this Purchase Order, Conditions and any Supplementary Conditions, along with any attachments expressly incorporated in writing, shall be the entire agreement between AnglicareSA and the Supplier relating to the Supplies and shall supersede all previous communications or representations between AnglicareSA and the Supplier, including any standard Conditions of Sale issued by the Supplier.

1.4 AnglicareSA's Purchase Order number and Purchase Order line number, where applicable, must be quoted on all documents and correspondence relating to the Purchase Order.

2. Variation

2.1. Any terms and conditions forming the agreement relating to the Suppliers shall not be varied unless agreed in writing by AnglicareSA.

3. Cancellation and Changes

3.1 AnglicareSA may, at any time before the Acceptance delivery, cancel the Purchase Order.

3.2 AnglicareSA may, at any time before the Delivery Date, direct a change to the Purchase Order with respect to the Delivery Date, the shipping or packing instructions or the place of delivery and the Supplier shall comply with AnglicareSA's written instructions without delay.

3.3 AnglicareSA and the Supplier shall agree on any reasonable adjustment to the delivery schedule or the price and incorporate such agreement into an amended Purchase Order.

3.4 Within seven (7) days after notification of any cancellation or changes in accordance with clause 3.1 and 3.2, the Supplier shall advise AnglicareSA in writing the effect of such cancellation or change on the delivery schedule or price.

3.5 AnglicareSA may also amend the Purchase Order with respect to any of the following:

- (a) the quantity of the Supplies;
- (b) the quality of the Supplies; or
- (c) any specifications.

Provided that an amended Purchase Order pursuant to clause 3 shall not take effect until AnglicareSA and the Supplier have agreed any reasonable adjustment to be made to the delivery schedule or price stated in the Purchase Order, and incorporate such agreement into an amended Purchase Order.

4. On Site Responsibilities

4.1 The Supplier shall, in providing the Supplies:

- (a) not interfere with AnglicareSA's activities or the activities of any other person at the place of delivery;
- (b) be aware of, comply with and ensure that the Suppliers employees, agents and contractors are aware of and comply with:
 - (i) all applicable Laws;
 - (ii) all Site standards and procedures to the extent they are applicable in providing the Supplies; and
 - (iii) all lawful directions and orders given by AnglicareSA's representative.

5. Conformity with Purchase Order

5.1 The Supplier warrants that the Supplies:

- (c) shall conform to the quantity, quality, and specification described in the Purchase Order, and/or any attachment expressly incorporated with the Purchase order;
- (d) are free from defect, materials and workmanship;
- (e) are new (unless otherwise specified);
- (f) conform to any applicable Australian Standards or other standards nominated in the Purchase Order;
- (g) are installed correctly (if the Supplier is responsible for installation);
- (h) are fit for their intended purpose;
- (i) are manufactured and supplied without infringement of any person's intellectual property rights;
- (j) are provided with due care and skill;
- (k) provided in a timely and efficient manner;
- (l) provided in accordance with the best practices current in the Suppliers Industry;
- (m) subject to clause 7, performed by the Supplier and/or the Suppliers Personnel; and
- (n) supplied in the most cost effective manner consistent with the required level of quality and performance.

5.2 Acceptance of the Supplies shall take place either after completion off inspection by AnglicareSA; or at the end of one (1) month from the date of actual delivery, whichever is the earlier.

5.3 If the Supplies do not conform with the quantity, quality or specification described in the Purchase Order, or do not meet the required standards of workmanship, then AnglicareSA shall be entitled, without prejudice to any other remedy, to exercise one or more of the following rights:

- (a) to reject all or any of the Supplies and require the Supplier to credit AnglicareSA with the price of the Supplies; or

- (b) to require the Supplier to promptly replace, repair, or rectify, the Supplies free of all costs to AnglicareSA and at the Supplier's risk.

5.4 The provisions of sub-clause 5.3 shall apply in addition to, and without prejudice to, any other of AnglicareSA's rights hereunder or at law, whether express or implied.

5.5 The warranty rights under this clause shall be assignable to AnglicareSA for a period of at least twelve (12) months from the actual date of delivery.

5.6 The Supplier must ensure that all warranties applicable to the Supplies are transferred to AnglicareSA.

6. Delivery, Risk and Title

6.1 The Supplier must deliver the Supplies described in the Purchase Order in accordance with the time periods for delivery specified in the Purchase. Partial delivery shall not be made unless agreed in writing by AnglicareSA.

6.2 Timely delivery of the Supplies in accordance with the Purchase Order is a material condition of these Conditions.

6.3 Unless otherwise specified in the Purchase Order, the Supplies will be delivered DDP (INCOTERMS 2010).

6.4 Title and risk to the Supplies shall pass to AnglicareSA on delivery unless otherwise specified in the Purchase Order, but without prejudice to any right of rejection which may accrue to AnglicareSA hereunder .

7. Reporting

7.1 At AnglicareSA's request, the Supplier must (at its own cost) provide any reports to the person nominated by AnglicareSA.

8. Subcontracting

8.1 Except as expressly provided in the Purchase Order, the Supplier may not subcontract any of its obligations without the prior written consent of AnglicareSA.

8.2 Where the Supplier subcontracts any of its obligations, the Supplier remains liable for the carrying out and completion of those obligations.

9. Price and Payment

9.1 Prices shall be non-variable and inclusive of all taxes (other than GST), duties packaging and delivery of the Supplies to the place of delivery.

9.2 AnglicareSA requires invoices to be provided in the approved GST format and requires any applicable Australian GST to be separately identified on the invoice. Invoices not in the required format will not be processed by AnglicareSA. All prices shall be on a GST exclusive basis.

9.3 The Supplier shall submit an invoice in respect of the Supplies properly provided within 14 days of completion or delivery of the Supplies to AnglicareSA either by email to accounts@anglicaresa.com.au or post to AnglicareSA, 159 Port Road, Hindmarsh, SA, 5007 and marked for the attention of the Accounts Payable Department , on or after the delivery of the Supplies.

9.4 Each correctly submitted and valid invoice shall become due for payment at the end of the month following the month on the invoice, unless otherwise nominated on the Purchase Order, provided that:

- (a) the Supplies have been delivered by the Supplier in accordance with the Purchase Order; and
- (b) the Supplies have been accepted by AnglicareSA in accordance with clauses 5 and 6 respectively.

9.5 In case of any disputes, AnglicareSA may withhold any disputed portion of the invoice until the dispute is resolved by the relevant parties.

10. Confidentiality

10.1 The Supplier must not, without AnglicareSA's prior written consent, reveal any confidential information it acquires in the course of performing its obligations, nor use that information in any way that is detrimental to AnglicareSA.

10.2 The Supplier shall:

- (a) not use any information in the Purchase Order except for the purpose of supplying the Supplies to AnglicareSA;
- (b) not grant third parties access to any information in the Purchase Order information without prior written consent of AnglicareSA, and only use such information for the purpose for which the consent is granted;
- (c) require any third party to whom information in the Purchase Order is provided to sign an undertaking on the same terms as the Supplier's undertaking.

10.3 The Supplier shall not use AnglicareSA's name or any of the Purchase Order information for publicity purposes without AnglicareSA's prior written consent.

10.4 This clause survives the termination and/or acceptance of the supplies by AnglicareSA.

11. Privacy

11.1. Each party agrees to comply with the *Privacy Act 1988* (Cth), whether or not that Act applies to them, in respect of personal information obtained by or disclosed to them in connection the Purchase Order.

11.2 Each party agrees to indemnify the other from and against any claims, demands, losses, damages, liabilities, and any reasonable costs and expenses arising solely out of the other party's failure to comply with the provisions of the *Privacy Act 1988* (Cth).

12. Waiver

12.1 A waiver of any rights hereunder shall not be effective unless expressly waived in writing by AnglicareSA.

12.2 Not exercising or a delay in exercising a right shall not be deemed a waiver of that right.

13. Indemnities

13.1 The Supplier indemnifies AnglicareSA against all liability, damages, costs, loss, expense and damage or any nature whatsoever arising from Supplier's, Supplier's Personnel, or Supplier's subcontractors, negligence, breach of duty, breach of statute or otherwise, which is caused by or arises from:

- (a) the performance by the Supplier of the Purchase Order; and
- (b) any failure to conform to or comply with the requirements of the Purchase Order, these Conditions, and any Supplementary Conditions or attachments expressly incorporated with the Purchase order.

14. Insurance

14.1 The Supplier agrees to maintain insurance cover with a reputable insurer for the following classes of risk in respect of work to be carried out under the Purchase Order:

- (a) \$10,000,000 public liability insurance for each and every claim;
- (b) workers compensation cover as required by law;
- (c) \$10,000,000 products liability for each and every claim;
- (d) transit insurance covering physical loss and/or damage to goods; and
- (e) such other classes as are appropriate to the circumstances of the Purchase Order as specified by AnglicareSA including Professional Indemnity if required in the Purchase Order.

14.2 The Supplier must ensure that any subcontractor engaged by the Supplier is insured to a level commensurate with the insurance obligations of the Supplier under the Purchase Order.

15. Warranties

15.1 The Supplier warrants and represents to AnglicareSA that:

- (a) it has unencumbered title to any goods forming the Supplies;
- (b) use of the Supplies by AnglicareSA will not infringe on the intellectual property, moral or other rights of any third party;
- (c) it, or any person performing the Purchase Order on its behalf, holds and maintains all required licenses, permits and authorities relevant to the supply of the Supplies; and
- (d) it holds all relevant import licenses, consents, or authorities necessary for the supply of the Supplies.

16. Intellectual Property Rights

16.1 Subject to 16.2, all rights, title and interest in any intellectual property rights created in providing the Supplies will be owned by AnglicareSA, and to the extent required, the Supplier hereby assigns all rights, title and interest it may have now or in the future in the Supplies to AnglicareSA.

16.2 Intellectual property rights owned by a party prior to the date of the Purchase Order ("Supplier's Intellectual Property Rights") shall remain with the party.

16.3 The Supplier hereby grants to AnglicareSA a perpetual, non-exclusive, non-transferable licence to use the Supplier's Intellectual Property Rights to the extent required for AnglicareSA to obtain the benefit of the Supplies. AnglicareSA agrees not to use or sub-licence any of the Supplier's Intellectual Property Rights without the Supplier's written consent for any purpose other than to obtain the benefit of the Supplies and carry out its operations.

16.4 The Supplier indemnifies AnglicareSA against any claim or action made or instituted against AnglicareSA by any person relating to any loss, injury or damage of intellectual property rights caused by the Supplier, or any infringement of intellectual property rights in connection with the Supplies.

17. Termination

17.1 The Purchase Order may be terminated for convenience by AnglicareSA at any time in whole or part by giving written notice of termination to the Supplier. In the event of such notice being given the Supplier shall comply with any directions with regard to the Supplies which may be given by AnglicareSA.

17.2 The Supplier shall submit within one (1) month from the effective date of termination the Supplier's termination claim. AnglicareSA shall pay a fair and reasonable price to the Supplier in respect of any commitments, liabilities or expenditure reasonably and properly incurred by the Supplier in connection with the Purchase Order and which would otherwise represent an unavoidable loss to the Supplier. AnglicareSA shall not be liable to pay any sum which, when taken together with any other sum or sums paid or due to the Supplier under the Purchase Order, shall exceed the total price of the Supplies the subject or the said notice of termination.

17.3 If the Supplier defaults on any of its obligations under the Purchase Order, AnglicareSA shall have the right to terminate all or part of the Purchase Order by written notice without prejudice to any other of its rights or remedies, and shall be liable only for Supplies delivered and accepted by AnglicareSA.

17.4 If the Supplier becomes insolvent or has a receiver or administrator appointed in respect of its business or any of its assets or is compulsorily or voluntarily wound up, then AnglicareSA shall have the right to terminate the Purchase Order by written notice without prejudice to any other right or remedies, and shall be liable only for the Supplies delivered and accepted by AnglicareSA.

17.5 No termination or suspension of the Purchase Order shall prejudice any rights or obligations of either party hereunder or at law. Both parties shall use all reasonable endeavours to mitigate their losses on such termination or suspension.

18. Inducement and Ethics

18.1 Whether acting alone or with others, the Supplier undertakes that it will not do, and warrants that prior to accepting the Purchase Order it has not done any of the following:

- (a) induce an employee, agent or sub-contractor of AnglicareSA to make any concession or to confer any benefit on the Supplier, refrain or withhold from doing any act or alter any of the requirements of the Purchase Order in return for any gift, money, benefit or other inducement;
- (b) without the prior written consent of AnglicareSA pay money or give any other benefit to any third party (either directly or indirectly) in connection with the negotiation and/or issue of the Purchase Order; or
- (c) encourage or facilitate an employee, agent or sub-contractor of AnglicareSA to commit any act of dishonesty against AnglicareSA which may benefit the employee, agent or sub-contractor of AnglicareSA or be a detriment to AnglicareSA or both.

19. Applicable Law

19.1 These Conditions shall be governed by the laws of South Australia.

19.2 The Supplier must act in compliance with all applicable laws in South Australia.

20. General

20.1 The relationship between AnglicareSA and the Supplier is one of principal and independent contractor. Nothing in the Purchase Order constitutes a relationship of employer and employee, principal and agent or partnership between AnglicareSA and the Supplier or any of the Supplier's Personnel. The Supplier's Personnel are not and are not intended to be an employee, agent or partner of AnglicareSA. The Supplier shall be responsible for all acts or omissions of the Supplier's Personnel.

20.3 The Supplier must not assign or purport to assign or transfer the Purchase Order or any right under the Purchase Order, including these Conditions and any Supplementary Conditions referred to in clause 2.1, and any attachment expressly incorporated in writing, without the prior written consent of AnglicareSA.

20.4 If there is a dispute relating to the Supplies or the Purchase Order, these Conditions, and any Supplementary Conditions referred to in clause 1.1, or any attachment expressly incorporated in writing, which is unable to be resolved between the parties, the parties agree to resolve the dispute in accordance with the *AnglicareSA Customer Feedback Management Organisational Standard* ("**Standard**") before having recourse to any other dispute resolution process. Written notice of the dispute must be given in accordance with the Standard.

20.5 If any provision of the Purchase Order, these Conditions and any Supplementary Conditions referred to in clause 2.1, and any attachment expressly incorporated in writing, is deemed to be prohibited, illegal, void, invalid or unenforceable in any jurisdiction, such provision is ineffective only to the extent of that prohibition. Such provision shall not affect the validity, legality or enforceability of such provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

21. Definitions

In these Conditions, unless the context requires otherwise:

"**AnglicareSA**" means Anglicare SA Ltd. ABN 69 187 578 153, AnglicareSA Housing Ltd ABN 600 073 809 or the entity identified on the Purchase Order.

"**Delivery Date**" means the date (and time, if applicable) specified in the Purchase Order as the "Date Required" by which the Supplies are to be supplied to AnglicareSA by the Supplier; or if no date is specified, a date (and time, if applicable) that is within a reasonable period having regards to normal commercial sense/practice.

"**Delivered Duty Paid**" (DPP) means the shipper/seller is responsible to insure the goods and absorb all costs and risks including the payment of duty and fees.

"**GST**" means the goods and services tax imposed under the *A New Tax System (Goods and Services) Act 1999*.

"**INTERCTERMS 2010**" means the rules governing a party's responsibility for payment of logistics/transport activities.

"**Law**" means:

- (a) Commonwealth, State and local government legislation including regulations, bylaws, orders, awards and proclamations.
- (b) Common law and equity;
- (c) Authority requirements and consents, certificates, licences, permits and approvals (including conditions in respect of those consents, certificates, licences, permits and approvals); and
- (d) Guidelines of Authorities with which the Supplier is legally required to comply.

"**Purchase Order**" means the order sent by AnglicareSA to the Supplier via email, facsimile or mail and any listed attachments which together make up the contract between AnglicareSA and the Supplier.

"**Site**" means the location nominated by AnglicareSA as the shipping address for the Supplies; or the location of the supply of the Services as specified in the Purchase Order.

"**Supplies**" means the Goods and/or Services specified in the Purchase Order.

"**Supplier**" means the person or company to whom the Purchase Order is placed.

"**Supplementary Conditions**" means any additional conditions to these Conditions provided to the Supplier by AnglicareSA which shall, in the event of any inconsistency,

take precedence over these Conditions. For the avoidance of doubt, where AnglicareSA and the Supplier have entered into a Contract for Services, its terms and conditions constitutes Supplementary Conditions for this purpose.