

Central Highlands Water - General Conditions for the Supply of Goods

1 Supply of Goods

- (a) The Supplier must supply the Goods to Central Highlands Water (CHW) in accordance with the Specification and otherwise in accordance with the Agreement.
- (b) The Supplier must supply the Goods together with any necessary instructions and technical documents, including operating and services manuals.

2 Acceptance or rejection of Goods

- (a) If the Goods conform with any applicable Specification or sample, CHW will issue written notification of acceptance of the Goods. Execution of a delivery docket, receipt or payment by CHW does not constitute acceptance of the Goods.
- (b) If the Goods do not conform with any applicable Specification or sample, or on delivery are damaged, unfit for purpose or not of merchantable quality, CHW may reject the goods by giving written notice (including reasons for rejection) to the Supplier. CHW is not obliged to pay for any rejected goods.
- (c) The Supplier must, at its cost, collect and remove any Goods that CHW has rejected as soon as practicable following notification. If the Supplier fails to collect and remove the rejected Goods within a reasonable time, CHW 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.
- (d) Goods that have been rejected are held by CHW at the Supplier's risk.

3 Invoicing and payment

- (a) Unless otherwise agreed in writing by CHW, the Unit Price is fixed and inclusive of all taxes (excluding GST), and includes all packaging, transport, insurance, loading, unloading, demurrage, fuel levy, surcharge and storage costs and any other costs the Supplier has incurred in supplying or delivering the Goods to CHW.
- (b) On or following CHW's acceptance of the Goods in accordance with **clause 2(a)**, the Supplier must submit to CHW a tax invoice for the Purchase Price which contains the information necessary to be a tax invoice for the purposes of the GST Act, together with such other information as CHW may reasonably require. The tax invoice must be sent to the address specified in the Purchase Order.
- (c) CHW will pay the invoiced amount within 30 days of receipt of an accurate invoice. However, if CHW disputes the invoiced amount it must pay the undisputed amount (if any) and notify the Supplier of the amount in dispute and the reason for the reduced payment. The parties will endeavour to resolve any such dispute by negotiation in good faith.
- (d) Payment of an invoice is not evidence that the Supplier has supplied the Goods in accordance with the Agreement or that the Goods conform with the Specification, but is merely payment on account.
- (e) CHW will, on demand by the Supplier, pay simple interest on a daily basis on any Overdue Amount, at the rate for the time being fixed under the *Penalty Interest Rates Act 1983* (Vic).

4 Title and risk

- (a) Title in the Goods will pass to CHW upon acceptance of the Goods.
- (b) Risk in the Goods will pass to CHW when the Goods have been delivered to the Delivery Point.

5 Conditions applicable where the Supply includes Installation

If the Agreement requires installation of the Goods by the Supplier, CHW's General Conditions for the Provision of Services (**Service Conditions**) will apply to the installation services performed by the Supplier, subject to any provisions of the Agreement which are inconsistent with the Service Conditions. The Supplier acknowledges receipt of a copy of the Service Conditions, which are deemed to be incorporated into, and form part of, the Agreement.

6 Warranties

The Supplier represents and warrants to CHW that:

- (a) **(Capacity)** it has the right to enter into the Agreement supply the Goods;
- (b) **(Title)** it has the right to sell, and transfer title to and property in, the Goods to CHW;
- (c) **(IP)** it is entitled to use and deal with any Intellectual Property Rights it uses or creates in connection with the Goods;
- (d) **(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 the Agreement;
- (e) **(No inducement)** no inducement, payment or promise has been made by the Supplier to any CHW Personnel in connection with the Agreement or the Goods to be provided by the Supplier under it;
- (f) **(Goods)** the Goods:
 - (i) are new and fit for the purpose stated in the Specification (or, if no purpose is stated, the purpose for which the Goods would ordinarily be used);
 - (ii) will, on delivery, be free from any charge or encumbrance in favour of any third party that is not known by or declared by CHW before the Agreement is entered into;
 - (iii) conform in all respects with the Specification and all relevant Australian Standards;
 - (iv) are free from defects (including defects in installation);
 - (v) are of merchantable quality and comply with all Laws (including in respect of the manufacture, labelling, packaging, storage, handling and delivery of the Goods); and
 - (vi) if the Goods relate to the supply of potable water, the Goods shall comply in all respects with whichever are the more onerous requirements of the applicable WSAA Standards or Australian / New Zealand Standard 4020 (Testing of Products for use in contact with drinking water);
- (g) **(Trust)** it has not entered into the Agreement on behalf of a trust;
- (h) **(Delivery)** it will ensure that the Goods are carried and delivered in accordance with all applicable road and transport laws, including HVNL; and
- (i) **(No infringement)** the receipt of the Goods and the possession or use of the Goods by CHW will not infringe the Intellectual Property Right or other rights of any person or any Laws.

If provided for in the Specification, the Supplier must obtain the benefit of any manufacturer's warranties for CHW.

7 Defective Goods

- (a) At its cost, the Supplier will repair or replace any Goods, as directed by CHW, which:
 - (i) are found not to conform in all respects with the Specification and all relevant Australian Standards; or
 - (ii) contain any defects during the Warranty Period for those Goods.
- (b) The Warranty Period shall be the published warranty period for the Goods or 90 days if no period is specified. The Warranty Period shall commence on the date that the Goods are accepted by CHW in accordance with **clause 2(a)**.
- (c) The Supplier must ensure that any maintenance obligation or warranty (including a warranty from the original manufacturer), which applies in relation to any Goods, or items incorporated in or supplied with the Goods, is performed, or that the benefit of the warranty is assigned to, or otherwise passed on to, CHW.

8 Carriage and Delivery of Goods

- (a) The Supplier must deliver the Goods in the correct quantities, and in good order and condition, to the Delivery Point by the Time for Delivery. Delivery will not be taken to have occurred until CHW acknowledges in writing and accepts that delivery has occurred. Acceptance of the Goods by CHW will not be taken to have occurred until acceptance is acknowledged in writing by CHW in accordance with **clause 2(a)**.
- (b) The Supplier's obligation to deliver Goods by the Time for Delivery does not relieve the Supplier of any obligation under **clause 17**.
- (c) The Supplier must ensure that the loading, unloading, carriage and stowage of Goods:
- (i) does not create a risk of injury to any person, including to any person who loads or unloads the Goods;
 - (ii) does not create a risk of spillage, contamination or any form of damage of or to the Goods;
 - (iii) does not create a risk to any other goods or property; and
 - (iv) is compliant with all environmental laws, EPA requirements, or other obligations in relation to the conveying vehicles.
- (d) The Supplier must load and unload Goods with appropriate equipment that is fit for this purpose. The Supplier may use CHW's plant or equipment to load or unload Goods with CHW's consent and at CHW's direction.

9 Liability

The Supplier must at all times indemnify, and will continue to indemnify and hold harmless and defend, CHW and each of its Personnel (**Indemnified Party**) against any liabilities, losses, damages, claims, actions, costs and expenses (including consequential losses, indirect losses, loss of revenue and legal expenses, determined on a full indemnity basis), which any of them suffers or incurs as a result of any of the following:

- (a) personal injury, including sickness and death;
- (b) property damage;
- (c) a breach of an obligation of confidence or privacy, whether under the Agreement or otherwise;
- (d) any fraudulent act or omission of the Supplier or its Personnel;
- (e) any wilful misconduct or unlawful act or omission by the Supplier or its Personnel;
- (f) any infringement or alleged infringement of the Intellectual Property Rights or other rights of any person, including any third party; or
- (g) any breach of the HVNL by the Supplier or its agents, and any breach of clauses 8, 16 and 17,

except to the extent that any such liability or loss is caused by the negligence or other wrongful act or omission of the Indemnified Party.

To the extent that the indemnity in this **clause 9** refers to persons other than CHW, CHW holds this clause on trust for those other persons.

10 Intellectual Property Rights

- (a) The Supplier grants to CHW a non-exclusive, perpetual, irrevocable and royalty-free licence to exercise all Intellectual Property Rights in relation to the Goods (including the right to sub-license these rights to a third party) to the extent necessary to allow CHW the full use and enjoyment of those Goods. The Supplier must, upon CHW's request, do all things as may be necessary (including executing any documents) to give full effect to such rights.
- (b) The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications and data supplied by CHW to the Supplier (**CHW Materials**) and all rights in the CHW Materials are and shall remain the exclusive property of CHW. The Supplier holds the CHW Materials as bailee of the CHW Materials for CHW and shall keep the CHW Materials in safe custody at its own risk, maintain them in good condition until returned to CHW, and not dispose or use the same other than in accordance with CHW's written

instructions. CHW is permitted to retake possession of the CHW Materials at any time.

11 Termination

- (a) Without limiting its other rights or remedies, CHW may terminate the Agreement with immediate effect by giving written notice to the Supplier if the Supplier:
- (i) fails to provide the Goods in accordance with the Agreement;
 - (ii) is in breach of the Agreement and:
 - (A) the breach is not capable of remedy; or
 - (B) the breach is capable of remedy but the Supplier fails to remedy the breach within 30 days of receiving notice from CHW of the breach;
 - (iii) or any of its Personnel involved in the supply of the Goods is guilty of fraud, dishonesty or any other serious misconduct;
 - (iv) or any of its Personnel is in breach of the warranty in **clause 6(e)**;
 - (v) commits any act or does anything that may be prejudicial or otherwise detrimental to the reputation of the State; or
 - (vi) suffers from an Insolvency Event.
- (b) CHW may terminate the Agreement at any time by giving written notice to the Supplier who must, on receipt, immediately cease all work, comply with any directions given in the notice and take appropriate action to mitigate any loss and prevent further costs being incurred with respect to the Goods.
- (c) If the Agreement is terminated pursuant to **clause 11(b)**, CHW will pay the Supplier:
- (i) all reasonable amounts due in accordance with **clause 3** for all Goods delivered by the Supplier in accordance with the Agreement up to the date of termination; and
 - (ii) the unavoidable and substantiated costs incurred by the Supplier as a direct result of the termination, excluding any loss of profit,
- and CHW has no liability to the Supplier for any other amount.
- (d) The Supplier may terminate the Agreement by giving at least 60 days' written notice to CHW if CHW fails to pay amounts due under this Agreement. This **clause 11(d)** constitutes the Supplier's sole and exclusive right to terminate this Agreement.
- (e) Termination or expiry of the Agreement will not prejudice any right of action or remedy which may have accrued to either party prior to termination or expiry.
- (f) On termination or expiry of the Agreement, the Supplier must immediately cease using all materials that contain any CHW Materials or Confidential Information by either destroying the materials or returning the materials at no additional cost to CHW.

12 Insurance

- (a) The Supplier must, at all relevant times, obtain and maintain insurance coverage at all relevant times and, if requested by CHW,, for a period of up to 7 years after the Goods are delivered, sufficient to cover any loss or costs that CHW may incur and for which the Supplier is liable in connection with the supply of the Goods, including (but not limited to):
- (i) product liability insurance to the value of the Purchase Order and, if applicable, public liability insurance. Product liability insurance must match any warranty period or apply for 3 years after delivery of the Goods, whichever period is the greater; and
 - (ii) marine or transit insurance, to cover the sound arrived value of the Goods, for the entirety of carriage up to and including delivery to the Delivery Point.

(b) On request, the Supplier must provide CHW with evidence of the currency of any insurance it is required to obtain under the Agreement.

(c) Where the insurance is due to expire, on request by CHW, the Supplier must provide evidence of the replacement insurance prior to the expiry of the initial insurance.

13 Confidentiality, privacy and data protection

(a) The Supplier and its Personnel, including partners, shareholders and consultants, must keep the Confidential Information confidential and secure and must not disclose or otherwise make available any Confidential Information to any other person.

(b) The Supplier hereby consents to CHW publishing or otherwise making available information in relation to the Supplier (and the supply of the Goods) as may be required:

- (i) to comply with the Contract Publishing System;
- (ii) to other VPEs or Ministers of the State of Victoria in connection with the use of the Goods;
- (iii) to any public sector agency (of the State, any other state or territory or the Commonwealth) for the purposes of benchmarking, provided that it will not identify the Supplier;
- (iv) by the office of the Auditor-General appointed under s94A of the *Constitution Act 1975* (Vic) or the ombudsman appointed under the *Ombudsman Act 1973* (Vic); or
- (v) to comply with the *Freedom of Information Act 1982* (Vic); or
- (vi) to the IBAC.

(c) The Supplier acknowledges that it will be bound by the Information Privacy Principles and any applicable Code of Practice with respect to any act it does or any practice it engages in, in the same way and to the same extent as CHW would have been bound by the Information Privacy Principles and any applicable Code of Practice had CHW done the act or engaged in the practice. Accordingly, the Supplier:

- (i) agrees to hold, manage, use, disclose or transfer information it collects from CHW in accordance with the Information Privacy Principles and any applicable Code of Practice; and
- (ii) in respect to information the Supplier discloses to CHW, warrants that such information has been collected and disclosed to CHW in accordance with the Information Privacy Principles and any applicable Code of Practice.

(d) The Supplier acknowledges that CHW is bound by the Protective Data Security Standards and will not do any act or engage in any practice that would contravene or give rise to a breach of a Protective Data Security Standard in respect of any Data it collects, holds, uses, manages, discloses or transfers, on behalf of CHW, under or in connection with the Agreement.

14 Access

When entering CHW's premises or any site which CHW controls, the Supplier must, and must ensure that its Personnel:

- (a) protect people and property;
- (b) prevent nuisance;
- (c) act in a safe and lawful manner;
- (d) comply with the safety standards and policies of CHW (as notified to the Supplier from time to time); and
- (e) comply with any lawful directions of CHW or its Personnel.

15 Sub-contracting

(a) The Supplier must not sub-contract to any third person any of its obligations in relation to the supply of the Goods without CHW's prior written consent (which CHW may give conditionally or withhold in its absolute discretion).

(b) The Supplier will not, as a result of any sub-contracting arrangement, be relieved from the performance of any of its

obligations under the Agreement and will be liable to CHW for all acts and omissions of a sub-contractor as though they were the actions or omissions of the Supplier itself.

16 Compliance with Law and Policy

(a) The Supplier must, in the supply of the Goods, comply with all Laws and with the lawful requirements or policy of any government, government department or other body or a governmental, semi-governmental, judicial, municipal, statutory or public entity or authority which are applicable to the provision of the Goods by the Supplier under the Agreement and with the Victorian Industry Participation Policy (if applicable).

(b) The Supplier acknowledges that:

- (i) the Supplier Code of Conduct is an important part of the State's approach to procurement and describes the State's minimum expectations regarding the conduct of its suppliers;
- (ii) it has read and aspires to comply with the Supplier Code of Conduct; and
- (iii) the expectations set out in the Supplier Code of Conduct are not intended to reduce, alter or supersede any other obligations which may be imposed on the Supplier, whether under the Agreement or at Law.

(c) Without limiting any other provision of this Agreement or any law, the Supplier must, and must ensure that its agents:

- (i) hold and maintain any necessary permits, licences, certificates, registrations, approvals and authorisations for the loading, handling and carriage of the Goods;
- (ii) comply with any law and requirements in relation to environmental protection, including any law regarding the covering, loading or restraint of the Goods;
- (iii) comply with any applicable law, regulation or requirement in relation to dangerous goods and have adequate training in the storage and handling of dangerous goods as required by law;
- (iv) minimise occupational health and safety risks, and comply with all occupational health and safety requirements, including the use of personal protective equipment; and
- (v) comply with all required standards and Laws for the spillage and clean-up of Goods, including applicable incident reporting requirements.

17 Chain of Responsibility Compliance

(a) Without limiting any other provision of this Agreement or any law, the Supplier must comply with the HVNL, in so far as it applies to the carriage, delivery or supply of Goods.

(b) The Supplier must, and must ensure that any of its agents:

- (i) comply with all mass, dimension, load and restraint requirements for vehicles or the carriage or handling of Goods;
- (ii) comply with all driving hours, speed or traffic requirements or laws;
- (iii) comply with all relevant requirements in relation to container weight declarations;
- (iv) manage and retain all transport and journey documentation, including consignment notes, declarations, manifests and log books, as required by law;
- (v) provide CHW, upon request, all information and documentation reasonably required by CHW (or a relevant government authority or agency) to monitor or audit compliance with this clause (including permitting inspections of transport and journey documentation and vehicles); and
- (vi) immediately notify CHW, upon becoming aware of any breach or potential breach by the Supplier or its agents, of the HVNL or this clause.

- (c) CHW, upon reasonable notice to the Supplier, may inspect any document, vehicle or premises of the Supplier that pertain to the supply of the Goods, or may appoint an agent to do. In such circumstance, the Supplier will provide reasonable assistance and access to CHW or its agent to complete the inspection.

18 GST

- (a) Terms defined in the GST Act have the same meaning in these Conditions as in the GST Act.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with the Agreement are expressed exclusive of GST.
- (c) 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 that the consideration for the taxable supply is to be paid or provided in accordance with the Agreement.

19 Dispute Resolution

- (a) If any dispute arises under or in connection with the 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.
- (b) If the Dispute is not resolved in 14 days it will be referred to mediation (**Mediation**) conducted by the Australian Commercial Disputes Centre (**ACDC**) in accordance with the ACDC mediation guidelines (**Guidelines**) with each party bearing their own cost.
- (c) 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.
- (d) The parties will continue to perform their respective obligations under this Agreement pending the resolution of a Dispute.

20 General

- (a) The Agreement is governed by and is to be construed in accordance with the laws applicable in Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and any court which has jurisdiction to hear appeals from any of those courts, and waives any right to object to any proceedings being brought in those courts.
- (b) Subject to **clause 20(c)**, time is of the essence in relation to the performance by the Supplier of its obligations under the Agreement.
- (c) CHW may extend the Time for Delivery of the Goods for any reason whatsoever, including any breach of the Agreement by CHW. The Supplier will not be entitled to recover from CHW any loss, expense or damages which it may incur as a consequence of CHW extending the Time for Delivery of the Goods.
- (d) Subject to **clause 20(c)**, no variation of the Agreement will be of any force or effect unless it is signed by CHW and the Supplier.
- (e) 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 CHW fails to do, or delays in doing, something CHW is entitled to do under the Agreement, does not amount to waiver of any obligation of, or breach of obligation by the Supplier.
- (f) The Supplier must not assign or otherwise transfer any of its rights under the Agreement without CHW's prior written consent.
- (g) CHW may set off any sums due from the Supplier to CHW under or in relation to the Agreement against any payments due from CHW to the Supplier under or in relation to the Agreement.

21 Damage to Persons and Property

- (a) The Supplier must:

- (i) provide all things and take all measures necessary to protect people and property (including property of CHW) against any damage or injury that may be caused by the Goods or the Supplier; and
- (ii) prevent, and promptly comply with reasonable requests for cessation of, nuisance, unreasonable noise and disturbance.

- (b) Where the Supplier or its Personnel or subcontractors damage any property, the Supplier must promptly, and at its own cost, rectify such damage.
- (c) The Supplier is responsible for care of the Goods from and including the commencement date of the Agreement to the date risk in the Goods passes to CHW under **clause 4(b)**. If loss or damage occurs to the Goods during the period of the Supplier's care, the Supplier shall, promptly at the direction of CHW and at its own cost, rectify such loss or damage. If the Supplier fails to rectify loss or damage in accordance with this **clause 21(c)**, CHW may rectify that loss or damage at the sole risk and expense of the Supplier.

22 Entire Agreement

- (a) The issue by CHW of a Purchase Order does not constitute acceptance by CHW of any term or condition of supply provided to CHW by the Supplier unless expressly included in the Agreement or otherwise agreed in writing by CHW.
- (b) The Agreement constitutes the entire agreement between CHW and the Supplier, and replaces any previous written or oral agreements between CHW and the Supplier. Any terms and conditions provided by the Supplier are excluded from the Agreement.

23 Interpretation

In these Conditions, unless the context otherwise requires:

Agreement means all documents relevant to the agreement for the supply of the Goods, including these Conditions, the Specification and the Purchase Order.

Central Highlands Water and CHW means the **Central Highlands Region Water Corporation**, (trading as Central Highlands Water) ABN 75 224 340 348 of 7 Learmonth Road, Wendouree, Victoria, 3353.

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

Conditions means these General Conditions for the Supply of Goods.

Confidential Information means any technical, scientific, commercial, financial or other information of, about or in anyway related to, CHW, including any information designated by CHW as confidential, which is disclosed, made available, communicated or delivered to the Supplier, but excludes information:

- (a) which is in or which subsequently enters the public domain other than as a result of a breach of these Conditions;
- (b) which the Supplier can demonstrate was in its possession prior to the date of the Agreement;
- (c) which the Supplier can demonstrate was independently developed by the Supplier;
- (d) which is lawfully obtained by the Supplier from another person entitled to disclose such information; or
- (e) which is required to be disclosed pursuant to Law, court order or other legal process.

Contract Publishing System means the system of the Victorian Government requiring publication of details of contracts entered into by Victorian Government departments, bodies and agencies including any replacement or amended system.

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 (or any of them or any component part of them) specified in the Purchase Order.

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

HVNL means any Australian Commonwealth, State and Territory road and transport legislation or regulations as amended from time to time, including the Heavy Vehicle National Law 2012, Heavy Vehicle (Vehicle Standards) National Regulation 2013, Heavy Vehicle (Mass, Dimension and Loading) National Regulation 2013, Heavy Vehicle (Fatigue Management) National Regulation 2013 and Heavy Vehicle (General) National Regulation 2013.

IBAC means the commission established under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) and includes any other organisation that may, from time to time, perform the functions of the commission.

Information Privacy Principles means the information privacy principles set out in the *Privacy and Data Protection Act 2014* (Vic).

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;
- (b) 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
- (c) the Supplier ceasing, or indicating that it is about to cease, carrying on business.

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

Law means:

- (a) any statute, regulation or subordinate legislation of the Commonwealth of Australia, the State of Victoria or local or other government in force in the State of Victoria, irrespective of where enacted; and
- (b) 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.

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

- (a) is not, or is no longer, disputed;
- (b) is due and owing under a tax invoice properly rendered by the Supplier in accordance with these Conditions; and
- (c) which has been outstanding for more than 30 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 its officers, employees, agents, contractors and sub-contractors of that party.

Protective Data Security Standards means standards issued (or reissued or amended) under section 86 or 87 of the *Privacy and Data Protection Act 2014* (Vic).

Purchase Order means any form of order or acknowledgment from CHW for the supply of the Goods.

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

Specification includes the specifications for the Goods contained in the Agreement and/or as otherwise advised by CHW to the Supplier, either orally or in writing, prior to the issue of the Purchase Order.

State means the Crown in the right of the State of Victoria.

Supplier means the person supplying the Goods under these Conditions.

Supplier Code of Conduct means the Code of Conduct issued by the Victorian Government for suppliers providing goods or services to the Victorian Government (as amended from time to time).

Time for Delivery means the date and, where relevant, the time specified in the Purchase Order by or on which delivery of the Goods must be effected by the Supplier, as may be adjusted under the Agreement.

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

Victorian Public Entity or **VPE** means:

- (a) each Victorian Government department (as defined in section 3 of the *Financial Management Act 1994* (Vic));
- (b) a "Government Owned Entity", meaning a statutory corporation, a State owned company, a State body or a State business corporation as those terms are defined in the *State Owned Enterprises Act 1992* (Vic);
- (c) a "Council" as defined in the *Local Government Act 1989* (Vic); or
- (d) an entity which receives the majority of its funding from any of the entities listed in paragraphs (a) to (c) or any entity under the control of any of the entities listed in paragraphs (a) to (c).

WSAA Standards means all national codes, water industry standards and product specifications published by Water Services Association of Australia.

24 Interpretation

Unless expressed to the contrary, in these Conditions:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' and 'including' means includes or including without limitation;
- (e) 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;
- (f) 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;
- (g) 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
- (h) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
 - (iii) 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;

- (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation; and
- (v) a party or parties is a reference to CHW and the Supplier (as the case requires).