

EXTRACT FROM THE VAAL UNIVERSITY OF TECHNOLOGY PROCUREMENT POLICY Approved: VUT Council 9 June 2009

12 GENERAL TERMS AND CONDITIONS

12.1 PRICE AND DELIVERY

12.1.1 The price reflected on the purchase order includes all costs, unless specified otherwise. VAT, Customs, duties, delivery costs, port clearances, packaging costs, goods in transit insurance and any other cost to deliver goods/service to the agreed place in VUT will be part of the price. The date and place of delivery will also be stipulated in the purchase order/appointment letter.

12.1.2 The supplier shall bear all risks until VUT takes physical possession of the goods. The seller shall ensure that he/she insures the goods at his/her own cost against any risk e.g. fire, theft, etc.

12.1.3 VUT reserves the right to cancel a purchase order if the original stipulated date of delivery is not met or a new date is unacceptable to VUT.

12.2 CONSIGNMENTS

12.2.1 Goods must be consigned to address as indicated in the purchase order.

12.2.2 Purchase order numbers must be indicated clearly on delivery notes and invoices. Non-compliance will result in non-acceptance of goods delivered.

12.2.3 Suppliers must ensure that goods are securely packed. Goods that are damaged will not be accepted and will be immediately returned to the supplier for replacement at the suppliers cost.

12.2.4 VUT will not be obliged to return any packaging material unless it is explicitly stated in the original purchase order.

12.3 DELIVERY NOTES AND INVOICES

12.3.1 Goods must be accompanied by delivery notes or invoices, clearly indicating the purchase order number, quantity and description of goods corresponding with the purchasing order.

12.3.2 All goods shall be delivered to VUT's Goods Receiving division, unless the size of the item warrants a direct site delivery. The latter will be pre-arranged by VUT.

12.3.4 VUT may request an acknowledgement of a purchase order or the right to inspect the suppliers' premises or the right to inspect other work done by the supplier, if this was used as a source of reference to award a purchase order/tender to a supplier.

12.4 QUALITY AND LEGAL COMPLIANCE

12.4.1 All goods/services must comply with all relevant legislation in South Africa as far as issues pertaining to the Occupational Health and Safety Act, Hazardous Substances Act, electrical compliance, environmental requirements, and ethical conduct required to manufacture such products etc.

12.4.2 It is the policy of VUT to purchase new products in order to ensure that the guarantee and warranty benefits are not lost.

12.4.3 In the case of product deficiencies within the manufacturer's guarantee/warranty period, the supplier shall at its own cost ensure that the deficiency is rectified without loss to VUT in the period of repair/rectification. In cases of deficiencies in equipment of high cost that are of a critical nature to VUT, the supplier shall at its own cost provide a replacement in the interim. In any event this shall be specified as a condition of purchase in specific equipment critical to the operations of VUT e.g. computer servers, electrical generators, various types of research equipment requiring continuous service etc.

12.5 CESSION

The supplier shall not cede, assign, transfer or sublet any purchase order or part thereof without written consent of VUT or without stating same in the original tender/quotation. In any event such consent will not release the supplier from any liability or obligations in terms of the purchase order.

12.6 DISCORDANCE

Should there be any ambiguities, discrepancies or lack of understanding in the description, dimension or quantities of the purchase order, the supplier shall refer the matter to VUT before executing the purchase order.

12.7 PAYMENTS

12.7.1 Ordinarily payment would be made 30 days after the invoice date if it coincides with the month end payment date electronic supplier/creditor payment of VUT and discount arrangements. Original Invoices received from suppliers in the second half of a month would ordinarily receive payment at the end of the month following the month in which an invoice is submitted to VUT. VUT will assist QSE's and EME's with earlier payments, provided such arrangements are made in terms of the original agreement. Payments will not be made without the provision of original invoices. VUT reserves the right to refuse payment if an invoice contains insufficient information to generate a payment

12.7.2 VUT reserves the right to reject a delivery without such compliance. In any event no payment shall be made without an original invoice, providing full details of the transaction.

12.8 INDEMNITY AGAINST INFRINGEMENTS AND PATENTS

The supplier shall indemnify VUT against any claims, which could be made against VUT for the infringement of patent rights, trademarks, protected rights or intellectual property rights associated with any product or service. All royalties arising out of such rights shall be paid by the supplier.

12.9 INSOLVENCY/LIQUIDATION

Should the supplier, before the completion or execution of a purchase order, become insolvent or liquidated, whether by compulsory or voluntary sequestration/liquidation, or compound with his creditors, or resolve to be, or be ordered by the court, to be wound up or placed under judicial management or have a court order made against him/her, providing for periodical payments to his creditors, VUT shall terminate in writing, without prejudice to its right to claim damages or amount due by the supplier.

12.10 ARBITRATION

Should any dispute or claim arise from the interpretation, fulfillment or breach of the conditions of the purchase order, VUT and the supplier should try to resolve it in the best interests of both parties. In the event of both parties failing to resolve the dispute, such dispute should be settled through an arbitration process, as guided by the Arbitration Act No 42 of 1965.

12.11 NON-WAIVER

The supplier shall not deem that failure or delay by VUT to monitor the performance in terms of the specifications of the purchase order is a waiver of VUT's right to receive goods/service in terms of the specifications required.

12.12 FORCE MAJEURE

Should either parties be prevented from fulfilling its obligations in terms of the purchase order, partially or completely, whether such prevention arises from force majeure, act of God, war, civil commotion, strikes, lockouts, revolutions, fires, explosions, floods, political disturbances, acts of any governmental or local authority, breakdown of plant and machinery, or any other cause over which that party has no reasonable control, such party shall be exempted from liability to the extent and for the period it is prevented from fulfilling its obligations. The party so prevented from fulfilling its obligations shall immediately notify the other party to that effect and confirm in writing, giving a full and complete explanation of the circumstances for such failure or occurrence and the action the notifying will take to minimize or remedy any non-performance. Should the occurrence be of a nature that it becomes a prolonged delay then parties may be mutual agreement terminate the purchase order, with the proviso that should the occurrence or delay beyond a period of ninety (90) days any party has the right to terminate the contract/purchase order. Parties, could beyond the 90 day period, agree on new terms and conditions.

12.13 OTHER

Nothing in these conditions shall prejudice any condition or warranty, expressed or implied, or other rights or remedy to which VUT would be entitled to in relation to the supply of goods and services in accordance with the purchase order. The original purchase order shall be construed to have been within the laws of the country at the time of issuing such purchase order. Unless stated in writing by VUT, these terms and conditions supersedes any other terms and conditions contained in the suppliers quotation or written offers. It shall be deemed that the supplier has satisfied him/herself as to these terms and conditions. (Suppliers will sign to that effect).

13. ACCESS TO TENDER INFORMATION

13.1 Tender information shall remain strictly confidential. The release of information outside VUT's structures shall be done in line with the relevant legislation. Upon request a tenderer shall be provided with the reasons why the tenderer's bid was unsuccessful.

13.2 The successful supplier shall be notified in writing of the acceptance of their tender.