School Council Short Form Goods Agreement

**Between**

Virtual School Victoria **(ABN 48 597 078 548)** of 315 Clarendon Street, Thornbury, 3017 Victoria

(**School Council**)

and

[Insert name of Supplier] **(ABN ##)** of [insert registered address]

(**Supplier**)

**Agreement Details**

1. **Details**

|  |  |
| --- | --- |
| School Council’s representative | Name: |
| Phone: |
| Supplier’s representative | Name: |
| Phone: |
| Date of Agreement |  |

1. **Goods and Specification**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| |  |  |  | | --- | --- | --- | | **Quantity** | **Code** | **Description** | | **114** | 21LXS0BW00 | NB TP X13 2-in-1 G5/ Intel® Core™ Ultra 5 125U Processor (E-cores up to 3.60 GHz P-cores up to 4.30 GHz) Non vPro/ 13.3" WUXGA (1920 x 1200), IPS, Anti-Glare, Touch/ Fingerprint Reader/ 16 GB LPDDR5X-7500MHz (Soldered)/ 256 GB SSD M.2 2280 PCIe Gen4 TLC Opal/ 5MP RGB+IR with Dual Microphone/ 4 Cell Li-Polymer 54.7Wh/ Intel® Wi-Fi 6E AX211 2x2 AX vPro® & Bluetooth/ 65W USB-C Low Cost 90% PCC 3pin AC Adapter/ 3 Year Courier or Carry-in/ Windows 11 Professional National Academic/ Ready to Provision (RTP)/ 4K HASH | | **114** | 5WS1P39451 | 4Y Basic upgrade to 4years onsite | | **74** | 21MMCTO1WW | T14 Gen 5’s – Ultra 5 / 16GB / 256  SSD / W11 Pro NA / 3-year onsite warranty / RTP / 4K HASH | | **74** |  | T14 - 4Y Basic upgrade to 4years onsite | | **2** | 21MQCTO1WW | T16 Gen 5’s – Ultra 5 / 16GB / 256  SSD / W11 Pro NA / 3-year onsite warranty / RTP / 4K HASH | | **2** |  | T16 - 4Y Basic upgrade to 4years onsite | | **80** |  | Jabra Evolve 20 UC Stereo - USB Stereo Headsets | | **75** |  | STM Saga Yellow Highlights VSV Branded Backpacks | |

1. **Unit Price (incl. of GST)**

|  |
| --- |
| [Insert price of Goods (inclusive of GST)] |

1. **Delivery Point**

|  |
| --- |
| 315 Clarendon Street, Thornbury, 3071 Victoria. |

1. **Time for Delivery**

|  |
| --- |
| Can Goods be delivered prior to Time for Delivery? Yes 🞎 No 🞎 |

1. **Terms and Conditions**
   1. The Goods must be supplied in accordance with the Conditions at Attachment 1.
   2. Capitalised terms in these Agreement Details that are otherwise undefined have the meaning given in:
      1. the Conditions at Attachment 1; or
      2. the Specification at Attachment 2,

with the meaning in the Conditions to take precedence to the extent of any inconsistency.

**Signing page**

**Executed** as an agreement

**School Council**

**Signed** by a duly authorised officer of the **School Council** who by signing this Agreement using an electronic signature acknowledges that, on signing using that method, the authorised officer is signing on behalf of the School Councilwhich will be bound by the Agreement:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
| Signature of authorised officer |  | Name of authorised officer (print) |  |
| Date |  | Position of authorised officer |  |

**Supplier**

**Signed** by a duly authorised officer of the **Supplier** who by signing this Agreement using an electronic signature acknowledges that, on signing using that method, the authorised officer is signing on behalf of the Supplierwhich will be bound by the Agreement:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
| Signature of authorised officer |  | Name of authorised officer (print) |  |
| Date |  | Position of authorised officer |  |

**Attachment 1**

**General Conditions for the Provision of Goods (‘Conditions’)**

## Supply of Goods

#### The Supplier must supply the Goods to the School Council in accordance with the Specification and otherwise in accordance with this Agreement.

#### The Supplier must deliver the Goods to the Delivery Point by the Time for Delivery. Delivery will not be taken to have occurred until delivery is acknowledged in writing by the School Council. Acknowledgment of delivery of Goods is not acceptance of the Goods.

#### If the Supplier is aware of any delay or possible delay in the supply of Goods in accordance with this Agreement, including any failure to deliver the Goods to the Delivery Point by the Time for Delivery, the Supplier must advise the School Council immediately upon becoming aware of such delay or possible delay.

#### The School Council may cancel the supply of Goods at any time before the Goods are delivered by giving written notice to the Supplier.

## Acceptance or rejection of Goods

#### If the Goods conform with the Specification or sample, the School Council will promptly accept the Goods in writing.

#### Following delivery, if the School Council is not satisfied that the Goods conform with the Specification or sample, the School Council may, by written notice to the Supplier, either:

##### require the Supplier, at its cost, to replace or rectify the Goods within 7 days of the School Council's notice so that the School Council is satisfied that the Goods conform with the Specification; or

##### reject the Goods, in which case the Supplier, at its cost, must collect the Goods within 7 days of the School Council's notice and refund to the School Council all money paid in respect of the rejected Goods.

## Invoicing and payment

#### The Unit Price is fixed and includes all packaging, transport, insurance, loading, unloading and storage costs and any other costs incurred by the Supplier, including all taxes, duties (including stamp duty), charges, fees and other imposts of whatever kind (including any fine or penalty) that may be imposed or levied in Australia or overseas in connection with this Agreement.

#### The Supplier must submit to the School Council a Tax Invoice for the Purchase Price following acceptance of the Goods by the School Council pursuant to clause 1.2(a). The Tax Invoice must contain such information as the School Council may reasonably require and be sent to the address specified in the Agreement Details.

#### The School Council will pay the invoiced amount within 30 days of receipt of an accurate invoice. However, if the School Council disputes the invoiced amount it must pay the undisputed amount (if any) and notify the Supplier of the amount in dispute. The parties will endeavour to resolve any such dispute. If requested, the Supplier will withdraw the disputed Tax Invoice and issue a replacement Tax Invoice for the undisputed amount.

#### Payment of an invoice is not to be taken as evidence that the Goods have been supplied in accordance with this Agreement but must be taken only as payment on account.

#### The School Council 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).

## Non-conforming Goods

#### Without limiting any other remedy the School Council may have, if Goods supplied pursuant to this Agreement do not meet or exceed the standards required under this Agreement (including the Specifications) at any time during their intended useful life (**Non-conforming Goods**), the School Council will not be required to pay for the Non-conforming Goods and the Supplier must, at its own cost and if the School Council requires it to do so, promptly remove those Non-conforming Goods from the School Council’s premises and, at the election of the School Council, either:

#### replace or rectify the Non-conforming Goods with Goods within 7 days of the School Council's notice so that the School Council is satisfied that the Goods conform with the Specification and which are acceptable to the School Council; or

#### refund to the School Council all money paid in respect of the Non-Conforming Goods.

## Title and risk

#### Title in the Goods will pass to the School Council upon payment for the Goods. Risk in the Goods will pass to the School Council when the School Council accepts the Goods pursuant to clause 1.2(a).

## Warranties

#### The Supplier warrants to the School Council that:

#### (**Title**) it has the right to sell and transfer full and unencumbered title to, and property in, the Goods to the School Council;

#### (**IP**) it is entitled to use and deal with any Intellectual Property Rights which may be used by it in connection with the Goods and to grant to the School Council the licences contemplated by this Agreement;

#### (**No infringement**) the possession or use of any Goods will not infringe any right of any third party (including any Intellectual Property Right) or any Laws;

#### (**Conflict**) it and its employees, agents and contractors 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 this Agreement; and

#### (**Goods**) the Goods:

##### 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);

##### conform in all respects with the Specification and the sample (if any) provided by the Supplier;

##### are free from defects (including defects in installation); and

##### are of merchantable quality and comply with all Laws; and

#### The Supplier must, to the extent that it is possible to do so, obtain for the School Council the benefit of any manufacturer’s warranties applicable to the Goods.

## Liability

#### The Supplier indemnifies the School Council and each of its officers, employees and agents (in this clause, each an **Indemnified Party**) against any loss, damage, claim, action or expense (including legal expense) which any of them suffers or incurs as a result of any demand, action, claim or proceeding against any Indemnified Party for or in relation to any of the following:

#### breach of this Agreement;

#### personal injury, including sickness and death, or property damage;

#### a breach of an obligation of confidence or privacy, whether under this Agreement or otherwise; or

#### any infringement or alleged infringement of the Intellectual Property Rights or any other rights of any person, including any third party,

#### except to the extent that any such demand, action, claim or proceeding is caused by the negligence or other wrongful act or omission of the Indemnified Party. To the extent that the indemnity in this clause refers to persons other than the School Council, the School Council holds this clause on trust for those other persons.

#### If any indemnity payment is made by the Supplier under this clause 1.7, the Supplier must also pay to the Indemnified Party an additional amount equal to any tax which is payable by the Indemnified Party in respect of that indemnity payment.

## Intellectual Property Rights

#### The Supplier grants to (or must obtain for) the School Council a non-exclusive, perpetual, irrevocable, world-wide and royalty-free licence (including the right to sub-license) to use, copy, modify, reproduce, publish, adapt, distribute, communicate and create derivative works from any Intellectual Property Rights supplied as part of or in relation to any Goods supplied, to the extent necessary to allow the School Council the full use and enjoyment of those Goods, and the Supplier must, upon request by the School Council, do all things as may be necessary (including executing any documents) to give full effect to such rights.

## Insurance

#### The Supplier must obtain and maintain insurance cover at all relevant times sufficient to cover any loss or costs that may be incurred and for which the Supplier is liable in connection with the supply of the Goods, including product liability insurance to the value of this Agreement and, if applicable, public liability insurance. Product liability insurance must be maintained for 3 years after acceptance of the Goods.

#### On request, the Supplier must provide the School Council with evidence of the currency of any insurance it is required to obtain under this clause.

## Confidentiality, privacy and data protection

#### **Confidentiality**

##### The Supplier and its employees, agents, directors, partners, shareholders and consultants will keep the Confidential Information confidential and secure and must:

##### use and reproduce the Confidential Information only to the extent necessary to perform its obligations under this Agreement; and

##### not disclose or otherwise make available any Confidential Information to any other person.

##### All Confidential Information will remain the property of the School Council.

##### The Supplier consents to the School Council publishing or otherwise making available information in relation to the Supplier (and the supply of the Goods) as may be required for the School Council to comply with any Law or Victorian government policy.

#### **Privacy Principles**

#### The Supplier must:

##### comply with the Privacy Law and Principles with respect to any act done or practice engaged in by the Supplier in relation to the Contract Data or otherwise under or in connection with this Agreement in the same way and to the same extent as the School Council or the Department would have been bound had it been done or engaged in by the School Council or the Department;

##### comply with any applicable privacy policies or procedures of the School Council and the Department; and

##### have an up-to-date privacy policy and implement appropriate procedures and practices to ensure that its handling and processing of Personal Information complies with the Privacy Law and Principles.

#### **Data Protection**

The Supplier agrees to be (and will ensure that its Personnel are) bound by the Victorian Protective Data Security Framework (VPDSF) and Protective Data Security Standards, and will not (and will ensure that its Personnel do not) do any act or engage in any practice that contravenes a Protective Data Security Standard in respect of any Contract Data collected, held, used, managed, disclosed, or transferred by the Supplier, on behalf of the School Council, under or in connection with this Agreement.

## Access

#### The Supplier and its employees, agents and contractors must only enter the premises of the School Council with the prior consent of the School Council (or its representative at the premises). When entering the premises of the School Council, the Supplier must, and must ensure that its employees, agents and contractors will, protect people and property, prevent nuisance and act in a safe and lawful manner, comply with the safety standards and policies of the School Council (as notified to the Supplier) and comply with the *Occupational Health and Safety Act 2004* (Vic), the Child Safety Laws and any applicable regulations made under those Acts.

## Working with Children Checks and Child Safe Standards

#### The Supplier must ensure that all its employees, agents and contractors entering the School Council’s premises:

##### have undertaken a satisfactory working with children check if required pursuant to the *Worker Screening Act 2020* (Vic) or as otherwise requested by the School Council; and

##### have met any additional relevant legal requirements and policies of the School Council and/or School in relation to the suitability of persons to work with school children or within the precinct of the School as notified to the Supplier by the School Council.

#### This remainder of this clause 1.12 only applies to the extent that the Supplier (and its employees, agents and contractors) are engaged in Child-connected work.

#### The Supplier acknowledges that the School Council and School Staff are required to comply with Child Safety Laws, the Ministerial Order and School Council Child Safety Policies.

#### If the Supplier is an Applicable Entity, it warrants to the School Council that it:

##### is compliant and will continue to comply with Child Safety Laws; and

##### will immediately provide the School Council with copies of any documents or information in respect to any compliance action taken by any regulatory authority in connection with child safety against the Supplier (or its employees, agents and contractors).

#### The Supplier (and its employees, agents and contractors) must:

##### if applicable (whether or not the Supplier must itself comply with Child Safety Laws), comply with any relevant School Council Child Safety Policies; and

##### comply with any reasonable direction by the School Council in respect to compliance by the School Council, School Staff and/or the Supplier with any Child Safety Laws or any relevant School Council Child Safety Policies.

#### The School Council may terminate this Agreement immediately if, in the School’s Council’s opinion, it determines at any time that:

##### there is a breach of any Child Safety Laws caused by, or in any way connected with, the Supplier or its employees, agents and contractors; or

##### the Supplier or any of its employees, agents and contractors are not suitable to engage in Child-connected work for the purposes of the School Council and School Staff's compliance with the Child Safety Laws or relevant School Council Child Safety Policies.

## Sub-contracting

#### The Supplier must not sub-contract to any third person any of its obligations under this Agreement without the prior written consent of the School Council.

#### The Supplier will not, as a result of any sub-contracting arrangement, be relieved from the performance of any obligation under this Agreement and will be liable for all acts and omissions of a sub-contractor as though they were the actions of the Supplier itself.

## Compliance with Law and Policy

#### The Supplier must, in the supply of the Goods, comply with all Laws and with the lawful requirements or policy of any governmental agency applicable to the provision of the Goods by the Supplier.

## GST

#### Terms used in this clause have the same meanings given to them in the GST Act.

#### Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with this Agreement are inclusive of GST.

#### If GST is imposed on any supply made under or in accordance with this Agreement which is not expressed to be inclusive of GST, 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 the consideration for the taxable supply is to be paid or provided in accordance with this Agreement.

#### If an adjustment arises in relation to a taxable supply made under this Agreement, the Supplier must recalculate the amount payable on account of GST under clause 1.15(c) to take account of the adjustment event. The Supplier must issue an adjustment note to the School Council within 28 days of becoming aware of the adjustment event. A corresponding payment to reflect the adjustment must be made by the Supplier to the School Council, or by the School Council to the Supplier, as the case may be.

## No inducements

#### The Supplier will not, and will ensure that its employees, agents and contractors will not, directly or indirectly, offer, promise, agree to pay, give, accept, or solicit anything of value (including to or from any third party) in order to secure any reward or improper benefit other than payment for the performance of its obligations under this Agreement.

#### The School Council may terminate this Agreement immediately on notice to the Supplier if the Supplier or any of its employees, agents and contractors is found to have engaged in any conduct under clause 1.16(a) and recover the amount of any loss resulting from such termination as a debt due from the Supplier.

## General

#### This 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 courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

#### Time is of the essence in relation to the supply of the Goods.

#### This Agreement may only be varied or replaced by agreement in writing.

#### The School Council may give or withhold any consent or approval, or exercise any discretion, under this Agreement in its absolute discretion unless express provision to the contrary is made.

#### This Agreement contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments expressed or implied, affecting this subject matter are superseded by this Agreement and have no effect.

#### Each party acknowledges and agrees to the signing of this Agreement by electronic means. The parties agree to be legally bound by the Agreement signed this way. This Agreement constitutes an original document in an electronic format and will have the same legal effect, validity and enforceability as a signature affixed by hand.

#### The following clauses survive termination or expiry of this Agreement: 1.2(b), 1.4, 1.5, 1.6(e), 1.7, 1.8, 1.9, 1.10, 1.15 and this clause 1.17(e).

## Interpretation

#### In these Conditions, unless the context otherwise requires:

**Agreement** means the agreement for the supply of the Goods of which these Conditions, the attachments and the Agreement Details form part.

**Agreement Details** meansthe part of this Agreement described as such, commencing on page 1 of this Agreement.

**Applicable Entity** has the meaning given to it under section 3 of the *Child Wellbeing and Safety Act 2005* (Vic).

**APPs** means the Australian Privacy Principles in Schedule 1 to the Privacy Act.

**Contract Data** means any information, data, datasets or databases created by or on behalf of the Supplier in the course of providing the Goods, including Personal Information, Confidential Information and Records, as the context requires, unless specifically created for the Supplier’s internal operational purposes. Contract Data includes any information, data, datasets or databases owned by or in the possession of the Department through the School Council from time to time, including information, data, datasets and databases which is, or which is intended to be, stored in, processed by and retrievable from computer systems operated by, or on behalf of the School Council and/or the Department, but does not include the Supplier’s internal working documents or notes.

**Child-connected work** has the meaning given to it in the Ministerial Order.

**Child Safety Laws** means any Laws that in any way relate to child safety, including the *Child Wellbeing and Safety Act 2005* (Vic).

**Code of Practice** means a code of practice as described in, and approved under, the PDP Act.

**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 any way related to, the School Council, including any information designated or treated by the School Council as confidential which is disclosed, made available, communicated or delivered to the Supplier, but excludes information which is in or which subsequently enters the public domain other than as a result of a breach of an obligation of confidentiality.

**Delivery Point** means the location or address to which the Goods are to be delivered, as specified in the Agreement Details (or such other location or address as may be agreed in writing).

**Department** means the Department of Education or any successor Department.

**Expiry Date** means the date set out in the Agreement Details, or if no date is inserted, the date when all Goods have been delivered in accordance with this Agreement and all payments required to be made under this Agreement have been made.

**Goods** means the goods (or any of them) specified in the Agreement Details and, if applicable, the Specification.

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

**HPPs** means the health privacy principles set out in Schedule 1 to the HR Act.

**HR Act** means the *Health Records Act 2001* (Vic).

**IPPs** means the information privacy principles set out in the PDP Act.

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

**Laws** means the law in force in the State and the Commonwealth of Australia, including common law and legislation.

**Ministerial Order** means Ministerial Order 1359 (as amended or replaced from time to time).

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

#### is not, or is no longer, disputed;

#### is due and owing under a tax invoice properly rendered by the Supplier in accordance with this Agreement; and

#### 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).

#### **PDP Act** means the *Privacy and Data Protection Act 2014* (Vic).

#### **Personal Information** means information or an opinion (including information or an opinion forming part of a database), that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion and includes where the context admits, information of a kind to which the HR Act applies.

**Personnel** of a party includes the officers, employees, agents, contractors and sub-contractors of that party, who are involved in providing, or supporting the supply of, the Goods. Personnel of a party does not include the Personnel of the other party.

**Privacy Act** means the *Privacy Act 1988* (Cth).

**Privacy Law and Principles** means:

1. the Privacy Act and the APPs;
2. the PDP Act and the IPPs; and
3. the HR Act and the HPPs,

and any applicable code of practice.

**Protective Data Security Standard** means any standard issued under Part 4 of the PDP Act.

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

**Record** means:

1. any document within the meaning of the *Evidence Act 2008* (Vic), in any format, and
2. any information or Contract Data stored or recorded, in any format,
3. anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
4. anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
5. a map, plan, drawing or photograph,

created, managed, maintained, brought into existence or otherwise acquired or used by the Supplier (or any subcontractor of the Supplier) in relation to this Agreement or the Goods. For the avoidance of doubt, it does not include a record that does not relate to this Agreement or the Goods.

**School** means the school which the School Council represents.

**School Council Child Safety Policies** means any relevant School Council policies, codes, guidelines or associated documents that in any way relate to child safety, including any policies, codes, guidelines or associated documents that the School which the School Council represents produces for the purpose of meeting its minimum child safety standards pursuant to section 5 of the Ministerial Order.

**School Staff** has the meaning given to it in the Ministerial Order.

**Specification** means the specifications to which the Goods must comply, as set out in the Agreement Details or as otherwise incorporated in this Agreement.

**Tax Invoice** has the meaning given in the GST Act.

**Time for Delivery** means the date and, where relevant, the time specified in the Agreement Details (or such other date or time as may be agreed in writing) by or on which delivery of the Goods to the Delivery Point must be effected by the Supplier.

**Unit Price** means the price per item of each of the Goods, as specified in the Agreement Details.

**Attachment 2**

**Specification**

[Attach the Specification and include any amendments required as a result of clarifications and/or negotiations. Delete if Goods particularised in Item 1 of Agreement Details]