

# **Supply Agreement**

**between**

**Spotless Services Australia Limited (“Spotless”)**

**and**

**The Supplier (“The Supplier”)**

## **Index of Agreement and Annexures**

1. Engagement of the Supplier
  2. Purchase Incentive
  3. General Conditions of Supply
  4. Pricing and Conditions of Sale
  5. Ordering & Deliveries
  6. Payment Terms
  7. Quality Management Systems
  8. Occupational Health and Safety
  9. Confidentiality Clause
  10. GST
  11. Dispute Resolution
  12. Insurance and Indemnity
  13. Business Review Meetings
  14. Termination by Either Party
  15. Rights on Termination
  16. Assignment
  17. Severability
  18. Successors
  19. Governing Law
  20. Entire Agreement
  21. Notices
- Annexure 1 – Trading Terms
  - Annexure 2 – Price Card
  - Annexure 3 - General Conditions of Supply

# Supply Agreement

between

**Spotless Services Australia Limited (“Spotless”)**

and

**The Supplier (“The Supplier”)**

## 1. Engagement of the Supplier

### 1.1 Engagement

Spotless engaged The Supplier as an independent contractor to provide the Services to Spotless and The Supplier accepts the engagement.

### 1.2 Term of Agreement

The term of this agreement is deemed to have commenced on .....and expires on ..... This agreement will supersede any existing agreement between Spotless and The Supplier in relation to referred to as the Products.

### 1.3 Renewal of Agreement

Spotless may renew this agreement upon the same terms and conditions as are contained in this agreement (excluding this clause) for a further period commencing on expiry of the Term. The same terms and conditions will apply beyond the expiry date unless Spotless and The Supplier agree to vary the terms. The Supplier may apply for a formal extension of the agreement if The Supplier and Spotless to do so not less than two (2) months prior to the expiry of the initial term.

## 2. Purchase Incentive

2.1 For the duration of this agreement, The Supplier will pay Spotless a purchase incentive payment as detailed in **Annexure 1**, on all products:

- (a) Purchased by Spotless; or
- (b) Ordered by Spotless on behalf of Spotless' client; or
- (c) Purchased through the Spotless Electronic Buying System (EBS) from The Supplier.

2.2 The Supplier payments made under this clause will be in the form of a trading agreement, meaning payments will be deducted from remittances made by Spotless.

## 3. General Conditions of Supply

The Supplier agrees to provide Spotless goods or services in accordance with the General Conditions of Supply **Annexure 3**.

#### **4. Pricing and Conditions of Sale**

All pricing provided by The Supplier will be on a per-unit basis, in Australian Dollars.

Subject to the following provisions of this clause, the prices for the products supplied under this agreement will be as set out in **Annexure 2** of the agreement.

4.1 The price of the products will be inclusive of:

- (a) All delivery and transport costs.
- (b) Any cost of insurance for the delivery and transport of the products and all other insurance required under this agreement.

4.2 The price of the products may be increased during the term if, and only if:

- (a) The Supplier give four (4) weeks prior notice in writing for any desired price increase; and
- (b) The price increase proposed is similar to price increases generally in the market for competitor products; and
- (c) The prices submission is in accordance with the fixed price term frequencies and rise and fall terms detailed in **Annexure 1**.
- (d) Spotless and the Supplier agree the proposed price increase is reasonable.
- (e) Spotless acknowledge that a price increase may occur, if market forces dictate unreasonable conditions, at which time the price increase will be mutually agreed between both parties.

The price adjustment will take effect four (4) weeks from the date that the Supplier provides Spotless with a new EBS price file containing the adjusted prices.

## 5. Ordering and Deliveries

The proposed order and delivery frequencies are detailed in **Annexure 1** together with fees and penalties, in the event of Spotless failing to meet minimum order requirements or exceeding weekly delivery frequencies.

### 5.1 Ordering

- (a) The Supplier agrees that Spotless sites and events may order products from the Supplier by using the EBS. The Suppliers agrees to work with Spotless and do those things reasonably necessary to facilitate the ordering process.
- (b) Purchase Order numbers as quoted will be detailed on all tax invoices issued when products are delivered. The tax invoice will detail and identify all relevant taxes, delivery costs and deliveries as applicable.

### 5.2 Delivery

- (a) Supplier will deliver products ordered by the Spotless site or event to the place advised by the relevant site or event, in accordance with the delivery procedures established between The Supplier and the relevant site or event.
- (b) The parties agree that products will be at the risk of Spotless, from the time that a Spotless employee at the relevant site or event signs the invoice or delivery docket for the relevant products.

## 6. Payment Terms

Spotless agrees to pay valid tax invoices for The Suppliers products in accordance with the frequency detailed in **Annexure 1**, and the Spotless accounting cycle, as detailed in the General Conditions of Supply.

## 7. Quality Management Systems

- (a) The Supplier shall demonstrate that it has a Quality Assurance Program that meets or exceeds the "Spotless Food Safety Standard".
- (b) The Spotless Food Safety Standard is published on the Spotless website.
- (c) The Supplier agrees to provide Spotless evidence of certification to the Spotless Food Safety Standard, by having a Spotless approved JASANZ audit agency audit The Suppliers operations.

## **8. Occupational Health and Safety**

The Supplier shall ensure that any mechanical and electrical plant and equipment (Equipment) made available on loan to, or installed at Spotless sites or events, meets the Spotless Occupational Health and Safety Standards advised to The Supplier from time to time. The Supplier is required to take all reasonable steps to ensure the following requirements are met in relation to the Equipment:

- (a) Assessments are conducted by The Supplier for potential hazards and risks in relation to design, manufacturer and operation.
- (b) Copies of the Risk Assessment and Occupational Health and Safety information are made available to Spotless.
- (c) Compliance with requirements of all relevant legislation, regulations, Australian Standards or Codes of Practice.
- (d) On request, any unserviceable or hazardous piece of equipment shall be removed from the site or event and replaced. Any costs associated with removal, replacement or repair shall be borne by The Supplier.
- (e) All electrical equipment and leads are inspected and tagged as "safe to use" prior to placement at the Spotless site or event; and
- (f) At no charge to Spotless, The Supplier will service and conduct regular preventative maintenance as required to ensure that the equipment remains in good and safe working order at all times, unless such equipment does not contain The Supplier product.

## **9. Confidentiality Clause**

All details contained in this agreement or acquired as a result of this agreement shall remain confidential between the parties, except to the extent either party is required by law to disclose its contents.

## **10. GST**

- (a) In this clause, the expressions “consideration”, “GST”, “input tax credit”, “supply”, “tax invoice”, “recipient” and “taxable supply”, have the meanings given to those expressions in the A New Tax
- (b) System (Goods and Services Tax) Act 1999.
- (c) Unless otherwise expressly stated, all prices and or other sums payable, or consideration to be provided under or in accordance with this agreement (including without limitation any payments provided under clause 2), are exclusive of GST.
- (d) If GST is imposed on any supply made under or in accordance with this agreement, the recipient of the taxable supply must pay to The Supplier an additional monetary amount equal to the GST payable on or for the taxable supply, subject to the recipient receiving a valid tax invoice, or issuing a valid recipient created tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time, as payment for the taxable supply is required to be made, in accordance with this agreement.

## **11. Dispute Resolution**

- (a) If any dispute between the parties arises out of any matter relating to this agreement, the parties agree that:
  - (i) The parties will in good faith attempt to resolve the dispute within 30 days of either party receiving notice of such dispute; and
  - (ii) If the parties cannot resolve the dispute in accordance with subparagraph (a)(i) of this clause, the matter will be referred to an independent mediator agreed by the parties. Where the parties cannot agree on a mediator, the parties agree to use a mediator appointed by the President of the Law Institute of Victoria.
- (b) The parties agree to participate in good faith in any mediation begun under paragraph (a) (ii).
- (c) Any mediation decision, or outcome under this clause, will not be binding on the parties unless both parties agree to be bound.
- (d) The dispute resolution procedures under this clause will not affect the right of either party to attempt to resolve a dispute by any other lawful means, including without limitation the right to take legal proceedings.

## **12. Insurance and Indemnity**

The Supplier is required to have and maintain the following policies of insurance, with respect to the services provided to Spotless under this agreement.

(a) Public Liability

A public liability policy for an amount of not less than \$10,000,000, for each and every occurrence. The policy shall include a Principals Indemnity extension in favour of Spotless for all amounts, which The Supplier shall become legally liable to pay in respect of personal injury, and/or property damage arising out of or in the course of The Supplier providing the services to Spotless.

(b) Workers' Compensation

A policy covering The Supplier for its liability, under any applicable law relating to Workers' Compensation. The policy shall be extended to include Common Law Liability cover, where permitted by the relevant statute. The Supplier must ensure that upon request from Spotless certificates of currency for the applicable Insurance Policies is provided to Spotless.

(c) Indemnity

The Supplier will indemnify Spotless against any liability, loss or expense, arising under statute or at common law arising from or in respect of:

- (i) Death of or personal injury or disease to any person;
- (ii) Damage or loss of or destruction or loss of use of any property; and/or
- (iii) Discrimination or sexual harassment.

to the extent of contribution of any negligent act or omission of The Supplier.

## **13. Business Review Meetings**

The parties agree to hold scheduled meetings to monitor progress and performance of the Spotless account. This would include quarterly business review meetings every October, January, April, and July - to monitor the progress and performance of the Spotless account.

#### **14. Termination by Either Party**

A party may immediately terminate this agreement by giving a written notice to the other party if:

- (a) The other party has breached this agreement and fails to remedy such breach within fourteen (14) days of receiving notice of that breach; or
- (b) The other party has a receiver; or a receiver and manager; or administrator or controller; or liquidator or provisional liquidator appointed; or if a petition is presented for the appointment of a provisional liquidator: or
- (c) The other party is unable to pay its debts as they fall due or compounds with its creditors, or assigns any of its assets for the benefit of its creditors.

#### **15. Rights on Termination**

Any termination of this agreement will be without prejudice to the rights of either party against the other, in respect of anything done, or omitted under this agreement before termination, or regarding any sums or other claims outstanding at the time of termination.

#### **16. Assignment**

A party must not dispose of, or encumber any right under this agreement, with out the prior written consent of the other party.

#### **17. Severability**

The provisions of this agreement are deemed to be several, and any invalidity of any provision of this agreement will not affect the validity of the remaining provisions of this agreement.

#### **18. Successors**

This agreement binds the parties and their successors or assigns.

#### **19. Governing Law**

This agreement is governed by and is to be construed in accordance with the laws in force in Victoria.

## **20. Entire Agreement**

This agreement embodies the entire understanding and agreement between the parties as to the subject matter of this agreement. Except where expressly provided for in this agreement, any variation to this agreement requires the consent of both parties.

## **21. Notices**

Any communication (including, without limitation, any notice, offer, proposal, authorisation, or consent) in this agreement must be in writing, and given by an authorised officer of the sender, and sent to the other party's address and numbers for service, which are initially.

**Spotless:**

Attention: **Position Held**  
Address: **Spotless Services Australia Limited**  
ABN 19 005 309 320  
350 Queen Street  
Melbourne Vic 3000  
Facsimile: (03) 9269 7604

**The Supplier:**

Attention: **Position Held**  
Address: ABN  
Facsimile: ( )

A party may change its address or numbers of service by notice to the other party.

**Executed as an agreement:**

Signed .....Date .....  
For and on behalf of  
**Spotless Services Australia Limited**

Witness .....

Signed .....Date .....  
For and on behalf of  
**The Supplier**

Witness .....

**Trading Terms**

**1. Purchase Incentive**

**2. Payment Terms**

Payment will be made on the first working day of the second month - following the month of service, and accounting months, as stipulated in the Spotless Accounting Calender (Annexure 4).

## Annexure 2

### Price Cards

## Annexure 3

### General Conditions of Supply

#### For Food and Beverage and related goods and services

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##### Preamble

The following serves to clarify Spotless Services Australia Limited (Spotless) purchasing policy for both new and existing suppliers/manufacturers. The Group Procurement Department is responsible for selecting and appointing suppliers of all commodities and services used by Spotless. Our policy is for central control over the purchasing arrangements for all market segments.

Under our standard operating procedures, the best quality goods and customer services, appropriate to requirements, are obtained for Spotless from approved suppliers/manufacturers.

The “**Spotless Buying Directory**” clearly details all the nominated suppliers and branded products to be used by branch and operations managers, in Australia.

Spotless strive to be at the cutting edge of E-procurement in the development of the “**Spotless Electronic Buying System**” (EBS) as a consistent, accurate way of managing the purchase, costing and pricing of goods and services from suppliers “**right goods, right price, right place, right time**”.

Spotless will continue to be closely associated with the development of quality management systems to meet local and internationally recognised standards as required now and in the future.

Seek to develop closer, longer-term relationships with approved supply chain partners and manufacturers, a primary focus.

Aggressively pursue economies and efficiencies through the development of specific pantry lists for market segments, over a range of primary commodities.

Our method of operation is unique, in as much that Spotless policies, procedures and technology will continue to provide efficiencies for service suppliers/manufacturers without regular representation at branch level.

Consequently, our requirements are that all contact with Spotless in relation to purchasing and concerning policy matters is directed to the Spotless Group Procurement Manager.

Set out below is a schedule of the general conditions and requirements, concerning supply to Spotless.

## **Accounting**

### **1. Invoices**

All deliveries to branches will be accompanied by a priced and extended invoice, unless determined otherwise by Spotless. Invoices must not be altered by drivers or delivery personnel.

Invoices must be made out to Spotless, stating our Spotless branch number, name and address. All invoices must be a "tax invoice", and include the Supplier's Australian Business Number (ABN). The following must be detailed separately on the tax invoice: the GST amount, the net of GST amount, and the total invoice amount.

### **2. Proof of Delivery**

The signature and printed name of Spotless employee must be obtained in all instances. Proof of delivery will also be required from the Supplier when claiming any unpaid accounts at a later date.

Title to, risk in, and responsibility for the products, will pass only to Spotless when they are delivered to the specified premises, and receipt of the products is confirmed in accordance with the General Conditions.

### **3. Weight and Count Check**

The receiving manager of a Spotless branch, reserves the right to complete this check at a suitable time, not during meal times or peak trading periods. The Supplier agrees to accept "adjustment requests" issued by Spotless eg. Invoices goods not delivered.

### **4. Payment of Accounts**

- (a) All accounts where possible are paid by "electronic funds transfer" (EFT). There are no C.O.D. payments within Spotless.
- (b) Spotless, as a general policy, pay suppliers no sooner than sixty days after the end of each trading month.
- (c) Spotless does not reconcile a supplier's statement to remittance advices. Invoices issued must be directed to the relevant branch, and suppliers are required to follow up unpaid accounts directly with the branches concerned. Failing resolution, this issue should be directed to the Spotless Group Procurement state manager.

- (d) Following advice of closure of any Spotless outlet, suppliers are required to provide a reconciliation of the account, within fourteen (14) days from the date of notification. No further claims will be accepted following expiry of this period.
- (e) The Spotless accounting system works on a 4,4,5 week, monthly accounting cycle. Refer to [www.spotless.com](http://www.spotless.com) through the Supplier Centre to gain access to current year, month end dates.

## 5. Penalties and Surcharges

Administrative surcharges, and 60 days payment terms will be applied to unauthorised expenditure. Suppliers and Spotless branch managers will be advised in writing of expired agreements prior to the application of penalties and surcharges.

## Supply Relationship

1. Suppliers and manufacturers must:
  - (a) Comply with the “**Spotless General Conditions of Supply**” and meet agreed key performance indicators (KPIs) to continue supply to Spotless;
  - (b) Attend meetings programmed by the Spotless Group Procurement Manager, and participate in working agendas to solve problems and achieve efficiencies;
  - (c) Maintain an excellent relationship through efficient management, and a dedicated Account Manager with the authority to make decisions;
  - (d) Ensure sufficient time, resources and focus are made available to manage the Spotless account and provide an acceptable level of “**customer service**” in relation to order processing and advice;
  - (e) Actions supply complaints immediately, and provide written responses to formal complaints within seven (7) days;
  - (f) Prevent sales representatives from visiting branches without a current “**Written Authority to Visit**” - issued by the Spotless Group Procurement Manager. Authorised visits must be arranged by appointment with branch managers. Sales representatives must not visit branches during meal times or peak trading periods.
2. Suppliers and manufacturers may be invited to participate in “**Trade Fairs**” from time to time, to exhibit and/or demonstrate goods and services, as well as providing product knowledge, for Spotless personnel, catering and hospitality industry employees and clients.

## Prices

1. All items and prices will be approved by the Spotless Group Procurement Manager. Applications for price rises during a fixed term, will not be accepted. All applications for price movements must be in accordance with the “**Spotless Guidelines for Approved Suppliers and Manufacturers**”.
2. Offers to the business segments or responses to tenders will be confidential, and accepted or rejected at the discretion of the Spotless Group Procurement Manager. The lowest price will not necessarily be accepted. Samples will normally be required for testing in the state office or at a nominated location.
3. Applications for all price movements are to be made to the Spotless Group Procurement Manager. Submissions are required up to four (4) weeks prior to the date of effect, or the conclusion of fixed pricing. The Supplier is required to submit details of the change in costs motivating the price movements.
4. Only approved products and prices will be imported into the “**Spotless Electronic Buying System**”, following approval by the Spotless Group Procurement Manager. All approved suppliers prices and products will be set up on a “**Supplier Data Template**”, in approved EBS format as an excel file on disc or transmitted via email.
5. Incentive buys, bonuses, and/or special offers, are not attractive in themselves, but should be reflected in the offered price. Gifts and rewards must not be offered to any staff under any circumstances.

## E-Commerce

1. Suppliers must have the capacity to provide high quality data analysis.
2. Data must be provided in the agreed form and required frequency, ideally transmitted in electronic format.
3. Email and fax order receiving capacities must be adequate to process orders promptly and efficiently.
4. Major suppliers must acquire middleware to automatically interpret EBS transmissions into picked orders.
5. All suppliers must complete the EBS prices template to include all the products in accordance with Spotless actual purchasing requirements.

## Products

1. Only items and commodities specified by the Spotless Group Procurement Manager may be supplied to Spotless and all new or varied services require approval. The Spotless Group Procurement Manager will advise branch and operations managers of all products through “**Spotless Individual Branch Buying Directions**”.
2. All items not featured in the “Spotless Branch Manager’s Buying Directory” require the approval of the Spotless Group Procurement Manager, prior to procurement. Unlisted suppliers/commodities remain outside the standard operating system until certified by the Spotless Group Procurement Manager.
3. In all instances the merchandise supplied to Spotless must be of suitable product quality commensurate for the intended purpose. Where specified the products supplied must be in accordance with Spotless specifications, in relation to product quality, unit size and packaging.
4. Manufactured and/or processed products must be packaged and labelled in accordance with all applicable standards of quality and all other requirements of any Federal, State or local government statues, by laws regulations, standards and codes and any applicable voluntary standards and codes and general industry practice.
5. Out of date stock must be offered for sale to Spotless branches.

## Orders and Deliveries

1. Despatched orders to branches must be in accordance with established pantry lists and the agreed range of branch manager’s requirements.
2. Branch managers must be consulted if orders cannot be fulfilled prior to despatch, to enable orders to be varied to meet operational requirements.
3. Spotless will not pay any additional costs for goods associated with product substitutions as a result of orders being varied by the Supplier.
4. Agreed delivery frequencies and patterns are not to be varied without approval from the Spotless Group Procurement Manager. All approval will be confirmed in writing.
5. The Supplier must provide contingency plans to overcome extraordinary circumstances such as breakdown of plant, equipment or delivery vehicles.
6. Orders for approved items will be placed by the responsible managers, directly to suppliers. “**Turn-In-Orders**” are not permitted.

## Quality Management Systems

1. Manufacturers and suppliers are required to demonstrate that their business is based on planned systematic actions, necessary to provide adequate confidence that the goods/services will satisfy the given requirements, and at least meet minimum standards.

Manufacturers and suppliers are required to demonstrate quality assurance approached, based on hazard analysis critical control points (HACCP) that are in place to deal with the hazards in food production, processing and/or handling systems including product recall advice and systems for Spotless.

2. Suppliers are required to undergo a quality assurance assessment through Spotless nominated auditors. Accepted levels of accreditation may exempt the Supplier from physical audit. All costs associated with the quality assurance program and achieving approved supplier status will be borne by the Supplier.
3. Deliveries are to be made in registered “**food transport vehicles**”, that comply with Spotless and State Health Regulations.
4. Delivery vehicles must be maintained in a clean hygienic condition, commensurate with the product being delivered and in accordance with “**Spotless Quality Management Systems**”
5. Perishable goods in transit to Spotless must be refrigerated and maintained in the safe temperature zone, nominated/legislated for that commodity group. Goods will not be accepted, when checked at the point of delivery, if found to be outside the safe temperature zone.
6. Delivery personnel servicing Spotless branches must be neatly attired in clean uniforms, and maintained in a hygienic, well groomed appearance.
7. In the event of product contamination, the Supplier must advise Spotless immediately, and mobilise the product recall plan to cease distribution of the affected item(s), and effectively and efficiently assist in arranging the retrieval from Spotless sites any product which is potentially unsafe - where practical and possible.
8. When state health authorities legislate, food warranties are to be provided by suppliers for Spotless.
9. The Spotless Group Procurement Manager maintains the right to visit and inspect supplier or manufacturer’s premises from time to time.
10. The Supplier is required to at all times comply with Spotless insurance and indemnity requirements, and maintain current policies for public and products liability, motor vehicle third party, property damage, crime/theft and workers compensation.

11. The Supplier is required to comply with the occupational health and safety act and associated statutory requirements to minimise risks and hazards in the supply of goods/services. Weights of individual packages are not to exceed legislated standards.
12. Suppliers of equipment, furniture, personal equipment/clothing and chemicals are required to meet all Australian standards and occupational health safety requirements. Materials safety data including instructions, precautions associated hazards, design and instructions etc are to be provided.
13. The Supplier is required to take reasonable steps to assist in maintaining industrial harmony and prevent disruption to the provision of goods/services to Spotless.
14. The Supplier is required to manage waste and pollution in an environmentally responsible manner, in accordance with accepted Australian and International standards.