

ATTACHMENT 5: TERMS AND CONDITIONS

1. Contact person

Questions relating to the general RFQ process must be posted on the Tenderlink online forum www.tenderlink.com/farmccpp. General responses will be available on the Tenderlink Q&A forum for all respondees. Confidential or clarifying enquiries [NOT RFQ responses] may be emailed to the Program's Support Officer, Mindy Greenwood: mindy.greenwood@scu.edu.au. Questions can also be directed to: info@farmingtogether.com.au.

2. RFQ closing time

This RFQ2 process remains **open** at the discretion of the Program Director. Any RFQ response not deemed suitable at the assessment, due to lack of farmer demand for those services, will be retained and re-evaluated at subsequent assessments in case farmers' needs change.

3. Place of RFQ lodgement

Now through program contact Mindy Greenwood (as above).

4. Disclaimer

Whilst the information contained in this RFQ has been formulated with all due care, SCU does not warrant or represent that the information is free from errors or omissions. The information is made available on the understanding that the SCU and its respective employees and agents, shall have no liability (including liability by reason of negligence) for any loss, damage, cost or expense incurred or arising by reason of any person using or relying on the information and whether caused by reason of any error, omission or misrepresentation in the information or otherwise.

Furthermore, the SCU takes no responsibility for the accuracy, currency, reliability and correctness of any information included in this RFQ.

SCU is not, under any circumstances, liable to compensate any Consultant in connection with the RFQ process (including if it is unsuccessful).

5. SCU Communication with Consultants

SCU reserves the right, at its absolute discretion, to engage in any clarification of any matter related to a submitted RFQ response. However Consultants will not be permitted to provide additional information that could materially alter their RFQ response. It is therefore essential that Consultants ensure that their response is fully and adequately disclosed in their RFQ response.

All contacts are strictly confidential. Consultants who fail to observe confidentiality about such contacts may be excluded from further consideration.

6. Ownership of documents and protection of information

All RFQ response documents and any information contained therein will become the property of SCU when they are received by SCU.

Where the Consultant believes that information included in an RFQ:

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- a. Is, or should be, confidential; or
- b. If disclosed, would unreasonably affect the Consultant's personal privacy; or
- c. If disclosed, would unreasonably affect the Consultant's business affairs,

then those documents of information should be clearly marked "**confidential**" or "**commercial-in-confidence**" before submission to SCU.

SCU is subject to the *Government Information (Public Access) Act 2009 (NSW)*, which grants members of the public the right to access information of governments, government agencies and various statutory bodies, including NSW universities. Consultants should be aware of the requirements under the GIPA Act for disclosure of certain contract details on the SCU website where the total value of contracts is \$150,000 or more.

7. No contract or binding obligation

The lodgement of an RFQ response does not create a contract between SCU and a Consultant, or otherwise create any legally binding obligation on SCU.

SCU may, at its absolute discretion, elect to abandon any part or whole of the RFQ process without giving prior notice to any actual or potential Consultants. SCU may also consider other concepts or developments from other parties not involved in the RFQ process.

8. Conflict of interest

By submitting an RFQ response, the Consultant represents and warrants that the Consultant is not aware of any actual or potential conflict of interest (whether financial or personal) that may affect its capacity to provide services to SCU.

If a Consultant identifies a conflict of interest or a risk of a conflict of interest arising after lodgement of their RFQ response and prior to the completion of the RFQ process, that Consultant must immediately disclose the conflict of interest to SCU. A Consultant may be required to resolve any conflict of interest in accordance with the direction of SCU before its RFQ response will be finally evaluated.

SCU reserves the right to exclude from this process any Consultant who misuses any position, knowledge or opportunity that could prejudice SCU's ability to objectively assess any RFQ.

9. False or misleading claims

SCU reserves the right to reject any RFQ that makes any false or misleading claims.

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10. Collusive conduct

Each Consultant, and any officer, employee, agent or adviser, must not, in connection with an RFQ response:

- a. Engage in any collusive, anti-competitive or similar conduct with any other person;
- b. Communicate with or solicit information from SCU officers or employees, or any of its related entities, except through the contact person listed in this document; and
- c. Offer any unlawful inducements.

11. Disclosure of information

A Consultant must not, without the prior written permission of SCU, furnish or otherwise publish or disclose any documents or information about this process or acceptance of an RFQ response.

12. Own inquiries

The Consultant represents and warrants to SCU that in submitting its RFQ response, the Consultant:

- a. Has read and understood all documents (including these terms and conditions) furnished by SCU for the purposes of submitting its RFQ response;
- b. Has made all necessary inquiries and obtained all necessary information about all risks and circumstances having an effect on the Consultant's RFQ response including, without limitation, any permit, licence, authority or other approval required to be obtained to enable the Consultant to operate the facility or service that is the subject of this RFQ;
- c. Has not relied on any express or implied statement, warranty or representation, whether oral, written or otherwise made by or on behalf of SCU, its officers, employees, agents or advisors other than any statement, warranty or representation contained in this document or any other document supplied by SCU;
- d. Has satisfied itself that the RFQ response is sufficient, complete and accurate;
- e. Agrees that SCU is not responsible for any costs or expenses incurred by the Consultant or any other person in responding to or taking any other action in relation to the RFQ process;
- f. Understands that it is responsible for all costs and expenses related to:
 - i. The preparation and lodgement of its RFQ response;
 - ii. Any subsequent negotiation; and
 - iii. Any other action or response by the Consultant in relation to the RFQ process.

Should a Consultant find any discrepancy, error or omission in the RFQ the Consultant shall notify the Contact Person in writing on or before the closing date and closing time.

13. SCU rights

Without limiting its rights at law or otherwise, SCU reserves the right, in its absolute discretion, at any time to:

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- a. Cease to proceed with the RFQ process outlined in this document;
- b. Change the structure and timing of the RFQ process outlined in this document;
- c. Vary or extend any time or date in this document for all or any Consultants or other persons, at any time and for such period, as SCU in its absolute discretion considers appropriate;
- d. Suspend or vary the RFQ process or any part of it;
- e. Terminate further participation in the RFQ process by any Consultant or anyone else or provide additional information or clarification;
- f. Require additional information or clarification from any Consultant or anyone else or provide additional information or clarification;
- g. Negotiate with any one or more Consultant and allow any Consultant to change its RFQ response;
- h. Call for new RFQ process and/or allow persons to respond in any subsequent request for tender who were not short listed in this RGQ process;
- i. Accept or reject any RFQ response received after the closing time for lodgement of responses;
- j. Accept or reject any RFQ response that does not comply with this document;
- k. Enter into a contract in relation to the RFQ with a person who is not a Consultant on such terms as SCU, in its absolute discretion, accepts without prior notice to any Consultant;
- l. Add to, alter, delete or exclude any services to be acquired by SCU including the inclusion of any additional services not mentioned;
- m. Publish the names of Consultants (whether successful or unsuccessful); and
- n. Allow or not allow a related body corporate within the meaning of the Corporations Act 2001 (Cth) to take over an RFQ in substitution for the original Consultant.

14. Change in circumstances

Applicants must advise the Contact Person immediately in writing of any material change to the information contained in their RFQ response, including any substantial change in their ownership or their financial or technical capacity.

15. Exchange of Information between Government Agencies

By lodging a RFQ response, the Consultant authorises SCU to gather, monitor, assess, and communicate to other Australian Universities, NSW Government agencies or local government authorities (Agencies) information about the Consultant's financial position and its previous performance in respect of any other works or services. Such information may be used by SCU and those other Agencies in considering whether to offer the Consultant future opportunities for work.

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16 Governing Law

This RFQ is governed by the laws of the State of New South Wales. The parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of courts or tribunals exercising jurisdiction in that state.

DECLARATION

I agree and acknowledge that my Request for Quotation (“**Request for Quotation**”) is governed by the terms and conditions set out in this document (“**Terms and Conditions**”).

I DECLARE that I have read and understood these Terms and Conditions and all the information submitted is correct and complete. I accept these Terms and Conditions.

Signed:

Date: