



**QUEENSLAND URBAN UTILITIES**

**GENERAL CONDITIONS OF OFFER**

# GENERAL CONDITIONS OF OFFER

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In these General Conditions of Offer, unless the context otherwise requires, the following definitions apply:

<b>Business Day</b>	means between 9:00am and 5:00pm Australian Eastern Standard Time on a weekday other than a Saturday, Sunday or public holiday in the city of Brisbane, Australia;
<b>Closing Time</b>	means the date and time stated in the Specific Conditions of Offer by which Offers must be submitted to Queensland Urban Utilities;
<b>CMPR</b>	means the Contract Management Plan Requirements;
<b>Confidential Information</b>	includes information of, or supplied by, Queensland Urban Utilities that: a) is by its nature confidential; b) is designated as confidential; or c) an Offeror or another person who obtains information but does not submit an Offer knows or ought to know is confidential;
<b>Conflict of Interest</b>	means any activity, or obtaining any interest which would compromise the ability of the Offeror, were it to enter into a binding legal relationship with Queensland Urban Utilities, to perform its legal obligations to Queensland Urban Utilities in good faith and objectively;
<b>Contract Email Address</b>	means the email address specified in the Specific Conditions of Offer.
<b>Deliverable</b>	means a product or deliverable which Queensland Urban Utilities proposes to procure under the RFO;
<b>Document</b>	includes: a) any paper or other material on which there is writing; and b) any article or material from which sounds, images or writings are capable of being reproduced including electronic media;
<b>General Conditions of Offer</b>	means this document, and any attachments and annexures to it;
<b>Intellectual Property Rights</b>	means any and all existing and future intellectual property rights throughout the world including rights in relation to copyright, trade-marks, designs, circuit layouts, plant varieties, business and domain names, trade secrets, patent rights and rights to require that 'knowhow' be kept confidential and other results of intellectual property in the industrial, commercial, scientific, literary or artistic fields.
<b>Offer</b>	means an offer submitted by an Offeror in response to the RFO;
<b>Offer Validity Period</b>	means the period specified in the Specific conditions of offer;

<b>Offeror</b>	means an entity that submits an Offer and in the case of a joint offer includes each entity;
<b>QTenders website</b>	has the meaning given in clause 3.1;
<b>Queensland Urban Utilities or QUU</b>	means Central SEQ Distributor-Retailer Authority (trading as Queensland Urban Utilities) and/or its nominated representative;
<b>Principal Contact Officer</b>	means the person specified in the Specific conditions of offer or such other appointee of Queensland Urban Utilities;
<b>Proposed Contract</b>	has the meaning given in clause 1.2(c);
<b>Response Schedule</b>	means a response schedule as indicated in the RFO Documents;
<b>RFO</b>	means Request for Offer;
<b>RFO Documents</b>	has the meaning given in clause 1.2(c);
<b>RFO Information</b>	means all information forming part of the RFO;
<b>RFO Process</b>	means the process by which Queensland Urban Utilities will evaluate Offers;
<b>Specifications</b>	means the specifications and drawings relating to the Deliverables for which Offers are sought;
<b>Specific Conditions of offer</b>	In addition to the General Conditions of Offer, any specific conditions of offer indicated in Part 1 of the RFO will apply to the RFO and will prevail to the extent of any inconsistency with the General Conditions of Offer.
<b>State Procurement Policy</b>	means the State Procurement Policy of the Queensland Government, as amended from time to time.

## 1.2 Interpretation

- (a) The following rules shall apply in interpreting the RFO, including these General Conditions of Offer, except where the context makes it clear that a rule is not intended to apply:
- (i) words importing a gender include all genders;
  - (ii) words in the singular include the plural and vice versa;
  - (iii) all dollar amounts refer to Australian currency;
  - (iv) a reference to an entity or person includes an individual, corporation, partnership or trust;
  - (v) if a day on which an act is to be done is a Saturday, Sunday or public holiday in the place where the act is to be done, the act may be done on the next business day in that place, unless the parties agree otherwise;
  - (vi) a clause is a reference to all of its subclauses; and
  - (vii) "includes" in any grammatical form is not a word of limitation.
- (b) If the Offeror comprises two or more entities, then the Offer will bind them jointly and each of them severally.
- (c) The RFO comprises the following documents, in descending order of priority:
- A. Request for Offer;
  - B. Specific Conditions of Offer;
  - C. These General Conditions of Offer;

- D. Specifications;
- E. the Response Schedules; and
- F. the Proposed Contract,

(“**RFO Documents**”)

(d) For the purposes of the RFO:

- (i) in order to resolve any conflict, ambiguity, inconsistency, error, omission or discrepancy in or between any documents forming part of the RFO Documents, the RFO Documents must be construed in the descending order of priority set out in clause 1.2(c);
- (ii) “**Proposed Contract**” means, in respect of the Deliverables, the following documents in descending order of priority:
  - A. the template contract(s);
  - B. any special conditions to the contract(s);
  - C. the CMPR; and
  - D. the Specifications.

## 2. Extent of legal relationship

### 2.1 RFO Documents

- (a) The RFO Documents govern all matters relating to the RFO including the submission and evaluation of Offers.
- (b) In submitting an Offer, each Offeror acknowledges that it has read, understood and agreed to all terms and conditions in the RFO Documents, including these General Conditions of Offer.
- (c) The submission of an Offer in response to the RFO will be deemed to be acceptance of the subject terms and conditions of the RFO Documents, including these General Conditions of Offer, despite any claim, representation or statement by an Offeror to the contrary.

### 2.2 Disclaimer

- (a) It is the responsibility of Offerors to obtain all information necessary or convenient for the preparation of their Offers.
- (b) While Queensland Urban Utilities has taken all reasonable care to ensure the accuracy and reliability of RFO Information:
  - (i) the RFO Information has been provided only for the convenience of Offerors;
  - (ii) Queensland Urban Utilities makes no representations or warranties of any kind, express or implied, the information or any part of it, is:
    - A. free of error, viruses or bugs; or
    - B. complete, accurate, reliable, available and suitable for the purposes of the RFO.
- (c) Any reliance an Offeror places on RFO Information is strictly at the Offeror’s own risk, and each Offeror must make its own enquiries and investigations as to the completeness, accuracy, reliability or suitability of RFO Information.
- (d) To the fullest extent permissible at law, Queensland Urban Utilities does not:
  - (i) assume any responsibility or duty of care; or
  - (ii) accept any liability whatsoever for any loss or damage,

relating to the provision or use of RFO Information, or the non-provision of information, in relation to Offers, and all such liability is hereby excluded.

### **3. Lodgement of Offers**

#### **3.1 Queensland Government Procurement Transformation QTenders website**

If the RFO specifies that an Offer must be submitted to Queensland Urban Utilities electronically via the Queensland Government Procurement Transformation QTenders website (“QTenders website”), the Offeror must:

- (a) ensure that the Offer is lodged using the identification details and unique password for the RFO received when downloading the RFO Documents;
- (b) ensure the Offer is submitted in the format specified in the RFO;
- (c) keep the file size of each document below 10MB; and
- (d) ensure, prior to submitting an Offer, that it is free from viruses and has been checked with an up to date virus checking program.

#### **3.2 Other lodgement procedures**

If the RFO prescribes a lodgement procedure other than via the QTenders website, Offerors must comply with that procedure.

#### **3.3 Closing Time**

- (a) All Offers must be lodged by the Closing Time.
- (b) Each Offeror is solely responsible for ensuring that its Offer is submitted in accordance with the RFO by the Closing Time.
- (c) Queensland Urban Utilities may by written notice, at its sole discretion, extend the Closing Time.
- (d) Where Queensland Urban Utilities extends the Closing Time, the new Closing Time will apply equally to all Offerors.
- (e) A determination by Queensland Urban Utilities, acting in its sole discretion, as to the time an Offer has been lodged will be final and binding on the relevant Offeror.

### **4. Late Offers**

- (a) Any Offer (including an offer already received by Queensland Urban Utilities in a manner not prescribed in these Conditions of Offer) that is received after the Closing Time will be deemed to be a Late Offer.
- (b) Late Offers, may at the sole discretion of Queensland Urban Utilities, be either accepted or rejected. Late Offers will usually not be accepted unless there has clearly been a mishandling of the Offer by Queensland Urban Utilities.
- (c) Queensland Urban Utilities does not accept any liability whatsoever to any Offeror for any costs, expenses or other loss or damage relating to a Late Offer, and all such liability is hereby excluded.

### **5. During the Offer Period**

#### **5.1 Enquiries relating to the RFO**

Whether before or after the Closing Time, all communications from Offerors relating to the RFO must be directed in writing by email only to the Principal Contact Officer at the Contact Email Address specified in the Specific Conditions of Offer. Should Offerors attempt to make contact with any other Queensland Urban Utilities officer in relation to the RFO or attempt to contact another QUU officer, they will be directed to provide all communications to the Contact Email Address.

## **5.2 Corrections and additions**

- (a) If an Offeror becomes aware of an error or omission in its Offer and wishes to lodge a correction or additional information, the material must be lodged with Queensland Urban Utilities in accordance with the lodgement requirements for the Offer, before the Closing Time
- (b) Queensland Urban Utilities is not obliged to consider a correction or additional information received after the Closing Time.

## **5.3 Clarifications**

- (a) Queensland Urban Utilities may provide the answer to any query from an Offeror to all other Offerors without disclosing the source of the query, and without disclosing any confidential information of an Offeror, by publishing the question and answer on the QTenders website.
- (b) Without limitation, Offerors should expect that answers to queries that provide additional substantive information will be provided to all other Offerors.

## **5.4 Addenda**

- (a) Any addendum to this RFO will be communicated to the Qtenders website.
- (b) It is the sole responsibility of each Offeror to regularly check this website for any changes to the RFO prior to the Closing Time.
- (c) In all cases, Queensland Urban Utilities accepts no responsibility for Offerors not being aware of any amendments or changes to the RFO.

## **5.5 Site visit**

- (a) Queensland Urban Utilities may, at its sole discretion, make provision for a site visit by Offerors.
- (b) If Queensland Urban Utilities deems a site visit to be mandatory, then Offerors or a designated representative must attend the site visit in order to submit an Offer.
- (c) Attendance at site visits is entirely at an Offeror's cost. The Offeror is solely responsible for arranging and attending any site visit. Queensland Urban Utilities does not accept any liability whatsoever for loss or damage arising from or in connection with a failure or inability of an Offeror to arrange and/or attend a site visit.
- (d) Attendees of any site visit must comply with all safety and induction requirements of Queensland Urban Utilities. Queensland Urban Utilities or its personnel may, at its sole discretion and without liability to an Offeror, exclude attendees who do not comply with such requirements.

## **6. Offer Requirements**

### **6.1 Minimum Content and Format Requirements**

- (a) Queensland Urban Utilities will only give further consideration to an Offer where at the time of opening, the Offer meets the Minimum Content and Format Requirements.
- (b) The Minimum Content and Format Requirements are that the Offer must:
  - (i) be in the English language;
  - (ii) unless otherwise specified, express all measurements in Australian legal units of measurement;
  - (iii) unless otherwise specified, express all amounts in Australian dollars;
  - (iv) where applicable, the Offer must include pricing spreadsheets, and where specified, the Offer must include compliance statements for and in

respect the RFO, Statement of Requirement and the Proposed Contract.

## 6.2 Offer validity period

An Offer must remain open for acceptance for the Offer Validity Period, or until Queensland Urban Utilities advises the Offeror in writing that it has been unsuccessful.

## 6.3 Specified compliance statements

Where requested to provide a compliance statement, Offerors must only indicate 'Complies', 'Partially Complies' or 'Does Not Comply' in accordance with the following definitions given to those terms:

Compliance Statement	Definition
Comply	<p>means:</p> <ul style="list-style-type: none"> <li>(a) in the case of a clause which imposes a legal (including contractual) condition, that the condition is agreed to;</li> <li>(b) in the case of a clause which specifies a characteristic or performance requirement, that the proposal is to provide the requirement as specified;</li> <li>(c) in the case of a clause which is of an informative nature only, that the clause has been read understood and is agreed; or</li> <li>(d) in the case of a clause where information has been requested that the information has been provided in the required level of detail and in the required format.</li> </ul>
Partially Comply	<p>means the legal condition or characteristic or performance requirement set out in a clause can be met by an Offer, subject to certain qualifications, which are stated in full. An explanation must be given supporting the claim of partial compliance.</p>
Does not Comply	<p>means that the legal condition or characteristic or performance requirement of a clause is not met by the proposal. Full details of the extent of non-compliance are to be stated.</p> <ul style="list-style-type: none"> <li>(a) An explanation must be given stating the reason why the requirement is deemed "Does not Comply".</li> <li>(b) A statement that an issue "<i>needs to be negotiated</i>" or a statement that does not fully state the Offeror's specific requirement or position will be deemed as "<i>Does not Comply</i>".</li> </ul>

## 6.4 Supporting material

An Offeror may provide such supporting material with its Offer as the Offeror considers appropriate. Such material may be considered by Queensland Urban Utilities at its sole discretion.

## **6.5 Alterations, erasures or illegibility**

Offers containing alterations or erasures; handwritten amendments which are not initialled; or information which is not clear or legible may be excluded from the evaluation process.

## **6.6 Alternative and part Offers**

- (a) Provided that an Offeror has submitted an Offer which complies with all of the requirements of the RFO, the Offeror may also submit an alternative Offer. The alternative Offer must:
  - (i) be submitted by the Closing Time but otherwise need not comply with the requirements of the RFO;
  - (ii) must:
    - A. fully describe its benefits, limitations and capabilities, including in respect of any innovative solutions;
    - B. be fully costed; and
    - C. permit ready comparison of the alternative Offer with complying Offers.
- (b) Alternative offers may be considered at the sole discretion of Queensland Urban Utilities.
- (c) Part Offers will not be accepted or considered by Queensland Urban Utilities, unless the Deliverables comprise discrete parcels of work and the RFO expressly allows for part Offers to be made in relation to one or more discrete parcels of work. Where the preconditions in this clause for submitting part Offers are satisfied, Queensland Urban Utilities may, at its sole discretion and subject to these General Conditions of Offer, accept one or more part Offers from one or more Offerors.

## **6.7 Joint Offers**

- (a) A joint Offer from two or more Offerors may be considered at the sole discretion of Queensland Urban Utilities.
- (b) A joint Offer must be submitted for and on behalf of each member of the Offering consortium, and must specify the structure and membership of the consortium, the role of each consortium member in providing the requirement in the RFO, and the extent to which each consortium member guarantees the performance of each other consortium member's role.
- (c) If a joint Offer is accepted by Queensland Urban Utilities, the consortium must contract with Queensland Urban Utilities as one single separate legal entity and provide a single point of contact for the consortium.

## **6.8 Non-conforming Offers**

- (a) Failure to comply with all or any of the requirements of the RFO may, at the absolute discretion of Queensland Urban Utilities, result in an Offer being considered non-conforming.
- (b) Queensland Urban Utilities may for any reason and at any stage during the RFO process, decline to consider any non-conforming Offer.
- (c) Queensland Urban Utilities is not obliged to provide reasons for non-acceptance of any non-conforming Offer.



## **7. Proposed Contract**

### **7.1 Contract Preference**

The indicative terms and conditions on which Queensland Urban Utilities intends to engage with the successful Offerer (if any) will be in accordance with the terms and conditions of the Proposed Contract. The Proposed Contract is indicative only and its terms and conditions may be subject to change at the sole discretion of Queensland Urban Utilities.

### **7.2 Conditions precedent**

The RFO and any binding legal relationship arising from it are subject to the following conditions precedent:

- (a) the obtaining of all relevant and necessary internal Queensland Urban Utilities, statutory and/or other legal approvals and permissions, including in respect of land tenure and access; and
- (b) finalisation and signing of a binding legal agreement in all respects by the successful Offeror, including obtaining all relevant internal approvals of the Offeror.

For clarity, nothing in these General Conditions of Offer, the RFO, or an Offeror's participation in the RFO process (including submitting an Offer), will give rise to any binding legal relationship between Queensland Urban Utilities and any Offeror, except as set out in this clause 7.2.

## **8. Participation in the RFO Process**

### **8.1 Security, probity, risk and financial checks**

- (a) Queensland Urban Utilities may, at its sole discretion, perform such security or financial checks and procedures as Queensland Urban Utilities considers necessary in relation to each Offeror and its officers, employees, partners, associates or related entities (including consortium members and their officers or employees if applicable), including checks relating to:
  - (i) financial viability;
  - (ii) corporate history;
  - (iii) significant litigation (past, present or pending);
  - (iv) past performance;
  - (v) experience, qualifications and skills of resources; and
  - (vi) other issues of risk.
- (b) Each Offeror agrees to provide, at its cost, all reasonable assistance to Queensland Urban Utilities in this regard.

- (c) Queensland Urban Utilities may exclude an Offer from further consideration if the Offeror fails to comply with this clause.

## **8.2 Evaluation criteria**

In addition to the matters set out in clause 8.1, but without limiting any other matters which Queensland Urban Utilities may have regard to in evaluating Offers, Queensland Urban Utilities will assess Offers against the evaluation questions indicated in the RFO Schedules.

## **8.3 Reference Reports**

Queensland Urban Utilities reserves the right to contact nominated clients of the Offeror during the evaluation process to obtain independent testimony on the Offeror's previous performance.

## **8.4 Presentation/Demonstration**

Queensland Urban Utilities reserves the right to request the Offeror to conduct a presentation and/or demonstration of the Deliverables and services the subject of its Offer and to take the outcome of such presentation and/or demonstration into account as part of the Offer evaluation process.

## **8.5 Post Offer negotiations or communications**

- (a) Queensland Urban Utilities may, at its sole discretion, enter into post-offer negotiations with one or more Offerors.
- (b) At all negotiations, the Offeror:
  - (i) must be represented by personnel who are authorised to make decisions on behalf of the Offeror and who are conversant with all technical, financial and contractual details of the Offer, as applicable; and
  - (ii) promptly provide written confirmation of any representations or statements or other information relating to the Offer provided orally to Queensland Urban Utilities.
- (c) All negotiated changes to an Offer which are agreed in writing by Queensland Urban Utilities and the Offeror will be deemed to form part of the Offer.

## **9. Conditional Prequalification**

- (a) Queensland Urban Utilities requires all contractors to hold a current conditional pre-qualification status for:
  - (i) workplace health and safety, and
  - (ii) current insurances required for this Offer,prior to entering into a contract with Queensland Urban Utilities.
- (b) Offerors who do not obtain pre-qualification status will not be eligible to enter into contracts with Queensland Urban Utilities.

## **10. Queensland Urban Utilities' Rights**

### **10.1 Queensland Urban Utilities' rights and discretions**

Subject to any contrary mandatory requirement imposed on Queensland Urban Utilities, Queensland Urban Utilities may, at its sole discretion and any time:

- (a) suspend, terminate, vary or correct the RFO or any part thereof;
- (b) accept or reject any Late Offer;
- (c) accept one Offer, or more than one Offer, or any part of an Offer:
  - (i) for the whole of its RFO requirements; or

- (ii) for any portion of its RFO requirements;
- (d) accept an alternative Offer or part Offer;
- (e) not accept:
  - (i) the lowest Offer; or
  - (ii) any Offer;
- (f) seek amended Offers or call for the submission of new Offers;
- (g) require additional information from any Offeror or anyone else, or provide additional information to any Offeror or anyone else;
- (h) shortlist Offerors;
- (i) in relation to any one or more Offerors:
  - (i) negotiate or not negotiate;
  - (ii) conduct parallel negotiations; and/or
  - (iii) discontinue negotiations at any time;
- (j) negotiate with any persons who have not submitted Offers in response to the RFO or enter into a binding legal relationship for similar deliverables to the Deliverables outside the RFO and the RFO Process;
- (k) conduct a best and final offer process;
- (l) require Offerors to provide one or more presentations or demonstrations in relation to their respective Offers;
- (m) in respect of an Offer, enter into a binding legal relationship with a party that is substituted for and in respect of the original Offeror, including (without limitation) because of change of control events affecting or relating to the original Offeror;
- (n) amend or vary:
  - (i) the application of the terms and conditions of the RFO to any Offeror; and/or
  - (ii) the terms and conditions of the Proposed Contract at any time, including (without limitation) during negotiations; and/or
- (o) if it is in the public interest to do so, suspend or terminate the RFO or any part of it.

## 10.2 Public interest

For the purposes of clause 10.1(o), each of the following will constitute a valid reason for terminating or suspending the RFO in the public interest:

- (a) a person breaches any probity requirement relating to the RFO;
- (b) a change of law relating to Queensland Urban Utilities' statutory functions and powers;
- (c) machinery of government changes which may affect Queensland Urban Utilities;
- (d) any delay or inability to obtain external approvals for the project or program to which the procurement forming the subject matter of the RFO relates;
- (e) funding is unavailable or insufficient for any reason; and/or
- (f) the Board or an authorised delegate of Queensland Urban Utilities makes a decision to suspend or terminate for any reason:
  - (i) the project or program to which the procurement forming the subject matter of the RFO relates; or
  - (ii) the RFO or any part of it.

## 11. Confidentiality and permitted disclosures

### 11.1 Confidentiality

- (a) All information contained in or relating to the RFO is Confidential Information and Offerors or potential Offerors (including any entity that obtains information through the Offer process), must ensure that Confidential Information is kept confidential.
- (b) If requested by Queensland Urban Utilities, Offerors or potential Offerors may be required to complete a confidentiality undertaking in a form acceptable to Queensland Urban Utilities.
- (c) Queensland Urban Utilities has no confidentiality obligations in relation to:
  - (i) information that is in the public domain (save via any breach of confidentiality in relation to the RFO);
  - (ii) information that is in or comes into the possession of Queensland Urban Utilities from a source other than the Offeror or from the Offeror independently of the RFO; and
  - (iii) the use or disclosure required by, under or pursuant to legislation or by any court, tribunal or other government or statutory body.

### 11.2 Permitted disclosures

Despite any provision contained in an Offer in relation to confidentiality:

- (a) each Offeror acknowledges and agrees that:
  - (i) the *Right to Information Act 2009 (Qld)* ("**RTI Act**") provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies;
  - (ii) the RTI Act requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to the public interest;
  - (iii) information relating to the RFO and any binding legal relationship arising from the RFO is potentially subject to disclosure to third parties; and
  - (iv) Queensland Urban Utilities does not guarantee that any information provided by the Offeror will be protected from disclosure under the RTI Act; and
- (b) each Offeror acknowledges and agrees that despite any other provision of the RFO and any binding legal relationship arising from the RFO, Queensland Urban Utilities is entitled to publish on the Queensland Government Procurement Transformation QTenders website: any other means, the following details:
  - (i) the name and address of the parties;
  - (ii) a description of the Deliverables;
  - (iii) the commencement or award date of any binding legal relationship arising from the RFO; and
  - (iv) the procurement method used.

### 11.3 Ownership and intellectual property rights in RFO Documents

RFO documents are the property of Queensland Urban Utilities. Intellectual property rights in the RFO documents belong to Queensland Urban Utilities and must not be copied without the prior approval of Queensland Urban Utilities except for the purposes of preparing an Offer. All copies of the RFO documents must be returned to Queensland Urban Utilities or destroyed upon request.

#### **11.4 Ownership and Intellectual property rights in the Offer**

- (a) All Offers become the property of Queensland Urban Utilities upon submission.
- (b) Intellectual property rights in the Offer will, as between Queensland Urban Utilities and the Offeror, belong to the Offeror. However, the Offeror grants to Queensland Urban Utilities (and warrants that it has full right to do so effectively) a non-exclusive, royalty free, perpetual and assignable licence to use, reproduce and adapt the Offer as it sees fit for any purposes relating to the RFO, including without limitation, evaluating the Offer.

### **12. Probity**

#### **12.1 Warranties**

Each Offeror warrants to Queensland Urban Utilities that:

- (a) to the best of its knowledge, as at the date of submission of its Offer, neither the Offeror nor any of its officers, employees or subcontractors have, or are likely to have, a Conflict of Interest in the performance of the Offeror's obligations under the RFO or any binding legal arrangement relating to the RFO; and
- (b) except as is expressly disclosed to Queensland Urban Utilities:
  - (i) its Offer was not prepared with any consultation, communication, contract, arrangement or understanding with any competitor regarding:
    - A. prices;
    - B. methods, factors or formulas used to calculate prices;
    - C. the intention or decision to submit or not to submit an Offer in response to the RFO;
    - D. the submission of an Offer other than in conformity with the terms of the RFO (that is, the submission of a Late Offer);
    - E. the quality, quantity, specifications or delivery particulars of any goods, services and/or works (including the Deliverables) to which the Offer relates; or
    - F. the terms of the Offer or of a competitor's Offer;
  - (ii) it has not:
    - A. provided any benefit (including money) directly or indirectly to, or entered into any contract, arrangement or understanding to provide any benefit (including money) directly or indirectly, to any competitor;
    - B. received any such benefit directly or indirectly, or entered into any contract, arrangement or understanding to receive any such benefit directly or indirectly from any competitor; and
  - (iii) it has complied and will continue to comply with clause 12.2.

#### **12.2 Commissions and incentives**

The Offeror must not offer anything to Queensland Urban Utilities or any officer or employee of Queensland Urban Utilities, including to a parent, spouse, child or associate of an officer or employee, as an inducement, gift or reward, which could in any way tend to influence Queensland Urban Utilities' actions in relation to the RFO and any Offer.

#### **12.3 Offeror's conditions**

The Offeror agrees that Queensland Urban Utilities will not be bound by any terms and conditions included in its Offer and all such terms and conditions and any liability

arising under them are excluded except to the extent expressly agreed in writing by Queensland Urban Utilities.

#### **12.4 Costs**

Queensland Urban Utilities is not liable to any Offeror for any costs, losses or expenses incurred in preparing, submitting or discussing an Offer or otherwise relating to the RFO. All costs incurred by and Offeror in preparing an Offer are its responsibility.

#### **12.5 Implied Terms**

To the fullest extent permitted by law, any implied terms, conditions or warranties (whether implied by statute, general law or otherwise) are excluded from these General Conditions of Offer, the RFO and the RFO process.

#### **12.6 Governing Law**

These General Conditions of Offer, the RFO and the RFO process are governed by and must be construed according to the laws of Queensland.