

# TERM SHEET – OFFSITE DELIVERY



## 1. **Application of this Term Sheet**

- 1.1 This Term Sheet is incorporated into all Agreements between You and UCOL when the Agreement between UCOL and You states that this Term Sheet applies.
- 1.2 Your obligations in this UCOL Term Sheet do not derogate from Your obligations at law and are in addition to those obligations.

## 2. **Health and Safety**

- 2.1 You must ensure, so far as reasonably practicable, the health and safety of UCOL's staff and UCOL Students while they are influenced or directed by You.
- 2.2 You must ensure, as far as reasonably practicable that the health and safety of UCOL Staff and UCOL Students is not put at risk from work carried out as part of the conduct of Your business or undertaking.
- 2.3 Without limiting clauses 2.1 or 2.2 and without limiting Your other obligations to UCOL under Your Agreement with UCOL, You must ensure as far as is reasonably practicable that:
  - (a) You provide and maintain an environment for UCOL Students and UCOL Staff that is without risk to their health and safety; and
  - (b) You provide and maintain safe plant and structures; and
  - (c) You provide and maintain safe systems of work; and
  - (d) You undertake the safe use, handling, and storage of plant, substances, and structures; and
  - (e) You provide access to adequate facilities for the welfare of UCOL's Staff and UCOL Students while they are on Your Premises or under Your influence or direction for purposes related to Your Agreement with UCOL; and
  - (f) You provide any information, training, instruction, and supervision that is necessary to protect UCOL Staff and UCOL Students from risks to their health and safety arising from the conduct of Your business or undertaking.
- 2.4 Where You manage or control Premises attended by UCOL Students and UCOL Staff You must ensure, so far as is reasonably practicable, that:
  - (a) the Premises; and
  - (b) access to the Premises; and
  - (c) anything arising from the Premises,

are without risks to the health and safety of any UCOL Student and any UCOL Staff Member.

2.5 Fixtures, Fittings or Plant in Premises visited by UCOL Students

2.5.1 You must, if you manage or control fixtures, fittings or plant at Premises attended by any UCOL Students and/or UCOL Staff, ensure that the fixtures, fittings or plant are without risk to the health and safety of any UCOL Student and any UCOL Staff Member.

3. **Building Work to Premises**

3.1 You must not use any part of the Premises affected by building work:

(a) if a building consent is required for the work; but -

(i) no building consent has been granted for it; or

(b) if a building consent has been granted for the work, but -

(i) no code compliance certificate has been issued for the work; and

(ii) no certificate for public use has been issued under Section 363A; or

(c) if a building consent has been granted for the work, and a certificate for public use has been issued under Section 363A, but -

(i) no code compliance certificate has been issued for the work; and

(ii) the certificate for public use has been issued for the part subject to conditions that have not been complied with.

3.2 Clause 3.1 applies whether or not the work has been completed and whether or not the work is done to another part of the building containing the Premises and not directly to the Premises.

3.3 You must promptly give UCOL evidence, if asked, of code compliance certificates or public use certificates

4. **Compliance with Statutes and Regulations – Use of Premises**

4.1 You must comply with all statutes, ordinances, regulations and by-laws relating to the use of the Premises.

4.2 You will promptly provide UCOL with a copy of all requisitions and notices You receive from any local (territorial authority) or other authority in respect of the Premises.

5. **Building Warrants of Fitness and Compliance**

5.1 You warrant that the Premises have a current Building Warrant of Fitness and Compliance Schedules if the Premises have features requiring them.

## 6. **Premises Seismic Matters**

- 6.1 You warrant that there is no sign on the exterior of the Premises (or on the exterior of the building containing the Premises) stating:
- (a) that the Premises (or the building containing the Premises) is an earthquake prone building (EPB); and
  - (b) that an Exemption Notice has been issued (EPB Exemption Notice)
- 6.2 The warranty in clause 6.1 continues during Your use of the Premises for UCOL purposes and if the Premises or Building containing the Premises did not have an EPB Notice or EPB Exemption Notice at the date of Your Agreement with UCOL but does receive one during Your use of the Premises for UCOL purposes, then you undertake to immediately notify UCOL in writing.
- 6.3 You warrant that You have made reasonable enquiries at the relevant local authority and that the Premises (and any building containing the Premises) is not on an earthquake risk register.
- 6.4 Where You (or any entity in which You have a legal or beneficial interest in) are the owner of the Premises or of any Building containing the Premises then You warrant that You have not received a request from the territory authority under Section 133AH of the Building Act in respect of the Premises or in respect of any building containing the Premises.
- 6.5 If You have any Initial Seismic Assessments (ISA) and/or detailed Seismic Assessment (DSA) (IEAs and DSAs collectively "Reports") in respect of the Premises, You will supply UCOL promptly with copies of all of the Reports and any Reports You obtain during the time that You provide services to UCOL (including to UCOL Staff and/or UCOL Students) on the Premises. UCOL notes that the Reports are a combination of fact and opinion and consequently are a guide only.

## 7. **Leases of Premises**

- 7.1 Where You do not own the Premises You warrant that You have a valid enforceable written signed lease or agreement to lease ("Lease") with the owner. You will, if requested by UCOL, supply UCOL with a certified copy of that Lease.
- 7.2 If You lease the Premises You warrant:
- (a) that Your use of the Premises does not breach any Lease conditions;
  - (b) that You are not in breach of any Lease conditions;
  - (c) that the Lease is not due to expire during the term that You agreed to supply services to UCOL or that if the Lease is due to expire during this period then You will have appropriate replacement Premises by the Lease expiry date.

## 8. **Asbestos**

- 8.1 If You have reasonable grounds to believe asbestos or asbestos containing material ("ACM") is not present in your Premises You must supply UCOL with a written statement for the basis of Your belief.

8.2 If You have assumed asbestos or ACM is present in Your premises then You must supply UCOL with a current Asbestos Management Plan in accordance with clause 13 of the Health and Safety at Work (Asbestos) Regulations 2016 (“Asbestos Regulations”). You must also review and revise that Asbestos Management Plan in accordance with clause 14 of the Asbestos Regulations and supply the revised Plan to UCOL.

## 9. **UCOL Remedies**

9.1 If UCOL acting reasonably decides that the Premises are unsuitable then UCOL may, at UCOL’s option, either

- (a) require You to find other premises that are acceptable to UCOL within a timeframe specified in writing by UCOL; or
- (b) terminate any Agreements between you and UCOL by written notice with UCOL specifying the date that any Agreement terminates; or
- (c) require you to relocate to a UCOL owned or leased buildings within a timeframe specified by UCOL; or
- (d) do nothing.

## 10. **UCOL Information and Requests**

10.1 You will grant UCOL and its contractors access to the Premises for purposes related to this Term Sheet.

10.2 You will supply UCOL all information UCOL reasonably requests in relation to the Premises and/or the Building containing the Premises and the matters on this UCOL Terms Sheet – Offsite Delivery.

10.3 UCOL may, at its sole discretion, by notice in writing to You, waive clauses 6, 7 and 10 (and each of them) of this Term Sheet. Any such waiver does not relieve You from any of Your obligations at law.

10.4 Before You start delivery to UCOL including UCOL Staff and/or UCOL Students You must give UCOL written notice of the address of the Premises and any replacement Premises.

## 11. **Interpretation**

11.1 Unless the context otherwise requires, capitalised terms in this Term Sheet have the meaning ascribed to them in this Term Sheet.

11.2 “Agreement” means that agreement between You and UCOL where You agree to supply to UCOL for the benefit of UCOL Students and/or UCOL Staff goods and/or services as described in the Agreement.

11.3 “Premises” includes fitout, fixtures, chattels and fittings and a reference to Premises includes parts of Premises. Premises also include the land, the buildings containing the Premises and the improvements which Premises are not owned or leased by UCOL and which are used by You to deliver goods or services to UCOL Students under Your Agreement with UCOL.

- 11.4 “UCOL Staff” includes all UCOL employees, UCOL contractors and their subcontractors, and UCOL consultants.
- 11.5 “UCOL Students” means people enrolled at UCOL and includes prospective UCOL Students and former UCOL students.
- 11.6 “You” and “Your” means the party named in the Agreement contracted to UCOL to supply goods and/or services to UCOL including to UCOL Students and/or UCOL Staff.