

# Term Sheet – Offsite Delivery



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

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

## 2. **Health and Safety**

- 2.1 You will, at Your cost, comply with the Health and Safety at Work Act 2015 (“HSWA”) when providing services under any Agreement between You and UCOL Limited irrespective of where those services are performed.
- 2.2 You acknowledge that you are responsible for ensuring the health and safety of UCOL Limited’s students and UCOL Limited Staff when those Students or employees are visiting or having access by virtue of this Agreement to Your Premises or are otherwise influenced or directed by You.
- 2.3 You will provide all relevant health and safety information to UCOL Limited Staff and Students as required under the HSWA, including, but not limited to:
  - (a) instruction on Your health and safety policy and rules;
  - (b) hazard/risk identification and management relating to the services that You are providing including environment, tasks, processes, or any hazards that may arise out of the Services;
  - (c) accident and reporting management for incidents (including near misses) that may occur while at Your Premises;
  - (d) emergency procedure management, including but not limited to fire evacuation and accidents and any other identified emergency situations that may arise at the Premises; and
  - (e) the name and contact details of Your Health and Safety Manager to whom health and safety concerns can be directed.
- 2.4 If each of the Parties has a duty in relation to the same matter under the HSWA, then each party will comply with all of their respective duties under the HSWA including (without limitation) their respective duties under Section 34 of the HSWA to, as far as is reasonably practicable, consult, cooperate and coordinate activities with each other.
- 2.5 You will promptly provide UCOL Limited with all information that UCOL Limited requests in respect of health and safety matters.

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 Limited 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 Limited 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)

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- 6.2 The warranty in clause 6.1 continues during Your use of the Premises for UCOL Limited 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 Limited but does receive one during Your use of the Premises for UCOL Limited purposes, then you undertake to immediately notify UCOL Limited 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 Limited promptly with copies of all of the Reports and any Reports You obtain during the time that You provide services to UCOL Limited (including to UCOL Limited Staff and/or UCOL Limited Students) on the Premises. UCOL Limited 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 Limited, supply UCOL Limited 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 Limited 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 Limited 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 Limited 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 Limited.

**9. UCOL Limited Remedies**

- 9.1 If UCOL Limited acting reasonably decides that the Premises are unsuitable then UCOL Limited may, at UCOL Limited's option, either
- (a) require You to find other premises that are acceptable to UCOL Limited within a timeframe specified in writing by UCOL Limited; or
  - (b) terminate any Agreements between you and UCOL Limited by written notice with UCOL Limited specifying the date that any Agreement terminates; or
  - (c) require you to relocate to a UCOL Limited owned or leased buildings within a timeframe specified by UCOL Limited; or
  - (d) do nothing.

**10. UCOL Limited Information and Requests**

- 10.1 You will grant UCOL Limited and its contractors access to the Premises for purposes related to this Term Sheet.
- 10.2 You will supply UCOL Limited all information UCOL Limited reasonably requests in relation to the Premises and/or the Building containing the Premises and the matters on this UCOL Limited Terms Sheet – Offsite Delivery.
- 10.3 UCOL Limited 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 Limited including UCOL Limited Staff and/or UCOL Limited Students You must give UCOL Limited 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 Limited where You agree to supply to UCOL Limited for the benefit of UCOL Limited Students and/or UCOL Limited 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 Limited and which are used by You to deliver goods or services to UCOL Limited Students under Your Agreement with UCOL Limited.
- 11.4 "UCOL Limited" means a Crown entity subsidiary of the New Zealand Institute of Skills and Technology ("NZIST"), the individual, firm or body corporate named in this Agreement and includes their executors, administrators, legal successors and permitted assigns. "UCOL

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Limited” includes all UCOL Limited employees, UCOL Limited contractors and their subcontractors, and UCOL Limited consultants.

11.5 “UCOL Limited Students” means people enrolled at UCOL Limited and includes prospective UCOL Limited Students and former UCOL Limited students.

11.6 “You” and “Your” means the party named in the Agreement contracted to UCOL Limited to supply goods and/or services to UCOL Limited including to UCOL Limited Students and/or UCOL Limited Staff.