

TENDER REQUEST – Commissioning Database Design



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Background

At Gekko we use commissioning checksheets during both factory commissioning and site commissioning of equipment. These checksheets:

- Act as a prompt to make sure checks are completed
- Record key operating parameters
- Supply to the client as a sign-off that commissioning is complete
- Minimize issues released to the field
- Provide schedule progress

We require a template generator to create the checksheets. The templates will be created from a database that is populated, modified and maintained by Gekko.

An example of current checks is shown below. Additionally each check will require the following fields: Equipment P&ID Number, Area Code and Commissioning Stage. Further detail can be supplied on request.

DESCRIPTION	Factory	Site	Value	Time (hr)
Air cabinet checked for leaks	Done	Not Started		0.2
PLC IP Address	Done	Not Started	192.168.0.200	0.1
PanelView/Scada IP Address	Done	Not Started	192.168.0.240	0.1

Definitions

Gekko – Gekko Systems Pty Ltd

Database – Underlying database of checklists. Includes a checklist for every piece of equipment used by Gekko

Project Checklist – Spreadsheet or similar with checks for equipment used in a project or area. Checks can be marked off and values added offline from database.

Expected Outcomes

The product should be:

- A database where Gekko can enter checks for equipment
- An interface to select which equipment to include in a project checklist
- Able to generate project checklist(s) from the database

Expected outcomes for the supplied product:

- Complete control for Gekko to add, modify or remove checksheets in the database
- Once made, the project checklist document can be accessed and modified offline
- Information can be entered into job-specific template in the field (i.e. on a tablet) or onto a computer
- MS Excel preferred format for the project checklist document. Any alternative should not require licencing or significant training to use.
- Preference to open source software or MS Office based solutions
- Flexibility to include single or multiple pieces of equipment in project checklist file
- New checks or equipment can be added or removed from the project checklist midway through a project (i.e. some of the checks marked as complete with values entered)
- Interface with MS Project OR output % complete and time frames by area
- Robust, particularly in the generated project checklist document
- Database and software can be managed by Gekko – not proprietary/black box system
- Gekko Systems will require Administration / Root Login access for all parts of any solution provided
- Gekko Systems will require copies of any developed code, including workflow solutions and macros
- Milestone reporting to Gekko during product development.

Options – please quote the following as optional add-ons if available:

- Option for training on use of system
- Option for maintenance and ongoing support

- Ongoing support or maintenance costs, such as an annual subscription, must be included as a separate line item in quote.

Exclusions:

- Entry of checksheet data into database

Budget and Timeframe

Expected completion timeframe is 4-6 weeks.

Please quote for higher or lower levels of detail if relevant.

Include any applicable costs for licencing (excluding MS Office), training, maintenance and support as separate line items.

Terms and Conditions

See *GEKKO SYSTEMS PTY LTD STANDARD CONDITIONS OF PURCHASE* document attached.

Contact Details

For queries or submissions of tender please contact Pat Gibney or Terry Lelliott.

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GEKKO SYSTEMS PTY LTD STANDARD CONDITIONS OF PURCHASE

Definitions

"**Adjustments**" means all adjustments carried out pursuant to Clause 7.1.

"**Conditions**" means these conditions of purchase

"**Contract**" means the binding agreement between GEKKO and the Supplier with respect to the Goods.

"**Contract IP**" means the Supplier's Intellectual Property that it is required by the Contract to give to GEKKO.

"**Dispute**" means a difference or dispute between the parties arising in connection with the subject matter or interpretation of the Contract.

"**Dispute Notice**" means a notice given pursuant to Clause 17.1.

"**Force Majeure**" shall mean any cause (not otherwise provided for in the contract) for which the party ("the Party") claiming to be affected is not directly or indirectly responsible, and which should not have been foreseen and prevented by it and which is beyond the reasonable control of the Party or for which the other party, its agents and contractors (other than the Party) is responsible. Lack of funds shall in no event be considered to be beyond the reasonable control of the Party

"**GEKKO**" means Gekko Systems Pty Ltd (ACN 064 618 293)

"**Goods**" means the goods or services which the Supplier is contracting to supply to GEKKO

"**Intellectual Property**" means any intellectual or industrial property whether protected by statute, at common law or in equity, including any patent, invention, copyright, design right (whether or not registrable) in any design, specification, process, technique, software, know how, trade secret, technical information, financial information, business method and confidential information.

"**Law**" includes any statute, regulation or rule of law or equity.

"**Materials**" means any patterns, designs, specifications, drawings, samples, dies, tools, jigs, technical information, equipment and other materials which the Contract requires GEKKO to provide to the Supplier to enable the Supplier to produce or supply the Goods

"**Order**" means an order or offer by GEKKO

"**Payment Certificate**" means a statement pursuant to Clause 7.2

"**Price**" means the price specified in the Order

"**Specifications**" means all designs, specifications and technical information including installation, operating, repair and maintenance manuals, and all other documents and things specified in the Contract or reasonably required in order to use the Goods for their intended purpose.

"**Supplier**" means the party contracting to supply Goods to GEKKO

1 Application

1.1 Any Order by GEKKO to the Supplier will be subject to these Conditions. Acceptance by the Supplier of an Order will give rise to a Contract. The sole terms of the Contract will be these Conditions and any other terms and conditions specified in the Order. The Contract may not be varied except by agreement in writing by the parties.

2 Specification

2.1 The Supplier must supply Goods in accordance with the Contract.

3 Price

3.1 GEKKO must pay the Supplier the Price at the time specified in the Contract.

3.2 Unless the Contract specifies otherwise, the Price includes the cost of transport insurance, all duties, taxes (except GST) and packing costs and any other costs and expenses associated with manufacture, delivery and/or supply, and offloading, of the Goods free into store to the address specified in the Contract.

3.3 For the avoidance of doubt, the Supplier must bear any increase in the cost of manufacture, delivery and/or supply of the Goods between the date of the order and the date of delivery or supply.

4 GST

4.1 The price is exclusive of GST. GEKKO must reimburse the Supplier for the amount of any GST payable in respect of any supply made under or in connection with the Contract, provided the Supplier provides GEKKO with a tax invoice in respect of that supply.

4.2 If there is an adjustment event in relation to the supply the party required to pay additional GST or refund must immediately pay that amount.

4.3 In this Condition 4, "GST" means Goods and Services Tax levied in accordance with the A New Tax System (Goods and Services Tax) Act 1999 (Cth) and italicised expressions have the same meanings as in that Act.

5 Delivery and Acceptance

5.1 Without limiting GEKKO's rights under the Contract or otherwise at Law, the Supplier must immediately repair or, if Gekko so elects, replace any Goods which are damaged or found not to be in accordance with the Contract

5.2 Delivery will not have taken place and property and risk in the Goods will not pass until the Supplier has obtained from GEKKO or its authorised agent a signed receipt or delivery docket.

5.3 Goods will not be considered accepted by GEKKO until they have passed any acceptance tests set out in the Contract, and are apparently in conformity with the Contract.

5.4 Delivery and acceptance will not have taken place until the Supplier has provided GEKKO with all Specifications. (GA drawings, maintenance and operation manuals and data sheets required to operate supplied unit.)

5.5 Subject to any provision in the Offer to the contrary, Goods not required by the Contract to be tested will be deemed accepted by GEKKO 7 days after delivery, unless GEKKO advises otherwise during that 7 day period. The inspection and acceptance referred to in this Clause 5.5 will be without prejudice to any of GEKKO's rights and remedies under the Contract or otherwise as Law and, without limiting the foregoing, will not release the Supplier from its obligations under Clauses 9 or 10.

6 Time

6.1 The Supplier must deliver or supply the Goods by the time or times stipulated in the Contract.

6.2 GEKKO may, by notice in writing given at any time prior to actual delivery or supply, postpone the time for delivery or supply or require the Supplier to deliver the Goods in instalments.

6.3 Where the quoted delivery time from the placement of order is 8 weeks or greater the Supplier must supply written production progress reports to Gekko at the following intervals:

- two weeks after placement of order;
- 6 weeks after placement of order; and
- thereafter at 4 weekly intervals.

In addition the Supplier will allow Gekko reasonable access to the Supplier's premises to inspect the Goods during their manufacture.

6.4 If the Goods are not delivered or supplied by the time(s) stipulated in the Contract, as varied pursuant to Clause 6.2.,

- GEKKO may without prejudice to any of its rights and remedies under the Contract or otherwise at Law cancel the Contract; and
- Where the quoted Price is AUD\$50,000 or greater the Supplier must pay GEKKO liquidated damages at the rate of 1% of the Price per week in respect of the period thereafter up to the date upon which delivery and supply is achieved to a limit of 5% of the Price. and shall be GEKKO's sole remedy for delay.

6.5 Neither party shall be considered to be in default or in breach of its obligations under the Contract to the extent that the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of the contract

7 Payment

7.1 Each claim for payment under the Contract must take into account all adjustments in accordance with the Contract, including without limitation, adjustments for any variation to the scope of the Goods.

7.2 GEKKO may issue to the Supplier a statement setting out the amount payable in respect of the claim and the reasons for any difference between that amount and the amount claimed.

7.3 The amount otherwise payable by GEKKO to the Supplier will be reduced by any amount due from the Supplier to GEKKO or that GEKKO is entitled to set off or withhold under the Contract, for breach or otherwise.

7.4 Without limiting GEKKO's rights under the Contract, GEKKO may deduct from or set off against any moneys which may be or thereafter become payable by GEKKO to the Supplier:

- any debt due from the Supplier to GEKKO; or
- any amount claimed or claimable by GEKKO from the Supplier under or by virtue of any provision of the Contract or otherwise at law or in equity.

7.5 GEKKO must pay the Supplier the amount of the claim due to the Supplier within 30 days from the date of Supplier's invoice.

8 Insurance

8.1 The Supplier must, until acceptance of the Goods by GEKKO, at its own cost, insurance noting the interest of GEKKO those of the Goods which consist of goods and any Materials for any loss of or damage to the Goods and/or Materials.

9 Guarantee and Indemnity

9.1 Without limiting any of GEKKO's rights under this Contract or acceptance of all of the Goods until the date 12 months from the date the Goods are put into commercial use or for a period of 18 months from delivery of Goods to GEKKO's workshop, whatever comes first, notwithstanding that such omissions, defects or failures come to the attention of GEKKO after expiry of that period.

9.2 Without limiting any other rights of GEKKO, in the event of a defect or failure of the type specified in Clause 9.1, the Supplier must, by mutual agreement or as agreed by both parties:

- where the Goods cannot be rectified refund the price for and, where applicable, remove, those of the Goods which do not conform with the Contract;
- repair, modify or replace at the Supplier's expense, those of the Goods which do not so conform. This may involve travel to site where the Goods are located which may be outside Australia. Any costs associated with such travel will be at the Suppliers expense; and/or
- supply again services which do not so conform; and the Supplier will be liable for all resulting costs and expenses incurred by GEKKO, including but not limited to, where applicable, any costs and expenses incurred by GEKKO in recovering the Goods, returning them to the Supplier, re-installing and recommissioning them.

9.3 GEKKO may, at its option, have any repair, modification or replacement of the Goods specified in Clause 9.2 undertaken by a third party or undertake the repair, modification, replacement or resupply itself if the Supplier fails to do so in a reasonable time. The Supplier must bear all reasonable costs and expenses of GEKKO doing so.

10 Warranty

10.1 The Supplier warrants to GEKKO that the Goods:

- correspond to the description in the Contract and conform to all relevant specifications, drawings, samples and/or descriptions;
- are fit and sufficient for the purpose for which they are intended;
- are of the quality specified or, if no quality is specified, in the case of goods, the best merchantable quality, and in the case of Goods which comprise services, are performed with due care, skill and diligence, and to the standard acceptable amongst members of the trade, industry or profession relevant to the services;
- are free of all defects and will operate satisfactorily and reliably under all conditions;
- are free of all liens and encumbrances and the Supplier has good title to them; and
- strictly comply with all applicable Laws Codes and standards.

11 Retention

11.1 Where the quoted price is AUD\$50,000 or greater Gekko may retain 10% of the Price for a period of 3 months from the date upon which delivery and supply is achieved until the Goods have passed any acceptance tests set out in the Contract.

12 Materials Supplied by GEKKO

12.1 GEKKO must provide to the Supplier any Materials.

12.2 All Materials, and GEKKO's intellectual property rights (if any) in them, remain GEKKO'S property. The Supplier must return the Materials to GEKKO within 7 days after delivery of the Goods.

12.3 The Supplier must not use the Materials for any purpose except the supply of the Goods to GEKKO.

13 Design and Specifications

13.1 The fact that GEKKO may be or is required to:

- review design drawings, specifications, construction drawings or workshop drawings or any other documents prepared by or on behalf of the Supplier;
- give any approval, direction, or instruction to the Supplier; or
- provides information to the Supplier will not
- relieve or reduce the Supplier's sole responsibility for the supply of the Goods in accordance with the Contract: or
- release the Supplier from its obligations under Clauses 9 and 10; or

(f) restrict GEKKO's rights and remedies under the Contract or constitute acceptance by GEKKO that the Supplier has complied with the Contract.

14 Confidentiality

14.1 Each party must keep confidential the terms of the Contract and the Materials and may only disclose them as required by Law or to those of its employees or agents necessary to enable the party to perform the Contract.

15 Intellectual Property

15.1 The Supplier grants to GEKKO a perpetual, irrevocable, non-exclusive, royalty-free, non-transferable licence (but with the right to transfer with the Goods) to use all Contract Intellectual Property (whether owned by the Supplier or not) associated with the Goods.

15.2 The Supplier warrants that:

- the supply of the Goods by the Supplier to GEKKO and the licence granted by the Supplier pursuant to Clause 14.1 does not infringe the intellectual property rights of any third party; and
- the Goods are not subject to any intellectual property rights of any third party that in any way restrict the rights of GEKKO or its customers to use or sell them.

15.3 The Supplier indemnifies GEKKO and its customers against any cost, expense, loss, damage or liability suffered or incurred by GEKKO or its any of its customers due to a breach of any of the warranties in Clause 15.2. For the purpose of this Clause 15.3, GEKKO is deemed to be entering into this Contract as agent for those customers.

16 Breach and Termination

16.1 In addition to its other rights pursuant to the Contract or at Law, GEKKO may terminate the Contract by written notice to the Supplier if:

- the Supplier breaches a provision of the Contract and fails to remedy the breach within 14 days of the receipt by it of a notice in writing from GEKKO specifying the breach and requiring the Supplier to remedy it;
 - if GEKKO is of the reasonable opinion that the Supplier is unable or unwilling to comply with its obligations under the Contract with due diligence or in a competent manner; or
 - the Supplier becomes, threatens to become or is in jeopardy of becoming subject to any form of insolvency administration.
- 16.2 Termination of the Contract pursuant to this clause is without prejudice to the rights of either party accruing prior to termination.

17 Assignment

17.1 The Supplier must not assign, sub-licence, sub-contract (except to a related entity) or transfer in whole or in part any of its interest or obligations under the Contract without GEKKO's prior written consent, which consent GEKKO may in its reasonable discretion grant, withhold or grant subject to conditions.

18 Dispute Resolution

18.1 If a Dispute between the parties arises, either party may by hand or registered post give the other party written notice of the dispute identifying and providing details of the Dispute.

18.2 Within seven (7) days of receipt of a Dispute Notice, each party must have its representative having authority to bind it confer to seek to resolve the Dispute or agree on a method of doing so and whether that method is to be binding. If a resolution or method of resolution has not been agreed within twenty one (21) days of the service of Dispute Notice, the parties must have their Chief Executive Officers confer for the same purpose. All aspects of conference(s) are privileged.

18.3 Except for the enforcement of payment due under the Contract or to seek injunctive or urgent declaratory relief, and subject to any agreement to the contrary, neither party may institute legal proceedings in respect of any Dispute unless a Dispute Notice in respect of that Dispute has first been given and then only after a period of twenty eight (28) days has elapsed from the date of its receipt.

19 General

19.1 If any provision of the Contract is unenforceable or void for any reason, that provision will be deleted from the Contract and the remainder of the Contract will stand.

19.2 Any waiver by GEKKO of strict compliance with any provision of the contract will not be effective unless in writing and signed by an authorised officer of GEKKO.

19.3 Delivery acronyms such as FCA, FOB, CIF used in the Contract will be interpreted in accordance with INCOTERMS 2010 edition.

19.4 The Contract will be governed by the laws of Victoria. The parties agree to submit to the jurisdiction of the courts of that State and any courts having appellate jurisdiction from them.

20 Precedence

20.1 If other General Conditions of Conduct are specified and documented by GEKKO these shall have precedence over GEKKO Standard Conditions of Purchase.

21 Limitation of Liability

21.1 Supplier shall in no event be liable to GEKKO for, and GEKKO warrants that it shall not under any circumstances make a claim for any loss of profit, loss of production, business interruption, loss of contracts, increased operational costs or loss of business opportunities, for pure economic loss or for any indirect, consequential or punitive losses or damages whatsoever whether or not in the reasonable contemplation of the parties at the time of execution of the contract.

Notwithstanding anything else contained herein the suppliers entire liability arising from or relating to this contract shall be limited to the amount paid for the Goods.

However the limitation of liability outlined in this clause 21 does not apply in the event of deliberate acts or omissions with the knowledge that the act or omission was in breach of this Contract and was likely to have harmful consequences or wilful misconduct, fraudulent or criminal actions by the Supplier or the Supplier's personnel.