

Conditions of Tender for Operating Authorities



1. Operation of Tender

The operation of this Tender will be governed by these Conditions of Tender for Operating Authorities ('Conditions of Tender') and the Guidelines to the Authorised Sale of Gaming Machine Operating Authorities issued by the Office of Liquor and Gaming Regulation ('Guidelines').

2. Form of Tender

All Tenders must be:

- a) Submitted on the 'Tender Sale Bid Form'.
- b) Written in English.

3. Submission of Tenders

Tenders must be enclosed in a sealed envelope clearly marked on the outside of the envelope with the Tender number and closing date, and must be **placed** in the Tender Box prior to the advertised closing date and time.

The tender must be lodged in the Tender Box at:

The Public Trustee of Queensland
Ground Floor 444 Queen Street
Brisbane QLD 4000

4. Non-conforming Tenders

Any Tender that does not comply in **every respect** with these Conditions of Tender will be deemed a non-conforming Tender and will be rejected.

Tenders will be deemed to be non-conforming if:

- not lodged on the 'Tender Sale Bid Form'
- the lodgement fee is not paid
- not lodged in the Tender Box before the specified closing date and time
- sent by Post, Facsimile or Email
- the tenderer is not authorised to tender
- the tenderer seeks to purchase more authorities than they are entitled
- the tenderer has lodged more than one tender price per Operating Authority or per premises.
- the tenderer has lodged more than one Tender for a premises in a region
- the 'Tender Sale Bid Form' does not include the number of Operating Authorities requested
- the tenderer identifies specific authorities from the Authorised Sale Pool.

The tenderer acknowledges and accepts the right of The Public Trustee in its absolute discretion to declare such Tenders to be non-conforming and agrees that he/she has no right of action against The Public Trustee whatsoever and agrees to the forfeiture of the Lodgement Fee.

Non-conforming Tenders will be declared invalid.

Conditions of Tender for Operating Authorities (continued)



5. Lodgement Fee

A non-refundable Lodgement Fee by way of cheque is payable to The Public Trustee with lodgement of each 'Tender Sale Bid Form'. Failure to pay the Lodgement Fee will render the Tender non-conforming.

6. Authorised Sale Administration Fee

Successful tenderers must pay an Authorised Sale Administration Fee (Administration Fee) for each Operating Authority purchased. This fee is payable to The Public Trustee, by way of cash, cheque or funds deposited into The Public Trustee's bank account, upon final settlement. Failure to pay the Administration Fee at settlement will result in the acceptance of the Tender being withdrawn.

7. Stamp Duty

Stamp Duty is payable on any successful Tender at the rate of duty set out in Schedule 3 of the *Duties Act 2001*.

8. Acceptance of Tenders

The Public Trustee reserves the right to:

- a) Not accept the highest or any Tender or
- b) Accept more than one Tender.

9. Disclosure of information

Any information contained in documents supplied by the tenderer, which is considered to be of a confidential nature, is to be clearly marked 'Commercial in Confidence'. This will not apply to the 'Tender Sale Bid Form'. Information so marked will not, other than as required by Law, be divulged to another party without the permission of the tenderer.

Tenderers are advised that there will be no public opening or disclosure of Tenders.

10. Tenders to become the property of the Office of Liquor and Gaming Regulation

All Tender documents are irrevocable and become the property of the Office of Liquor and Gaming Regulation (OLGR).

Conditions of Tender for Operating Authorities (continued)



11. Acknowledgement by Tenderer

Tenders will be made on the basis that the tenderer acknowledges that:

The Public Trustee has been appointed the selling entity pursuant to the Gaming Machine Regulation 2002 to conduct authorised sales of industry pool authorities and government pool authorities and acts as agent for the vendor.

The Public Trustee will only be bound by the information contained in the Conditions of Tender and Guidelines issued by the Office of Liquor and Gaming Regulation (OLGR).

The Public Trustee will not be bound by any oral or written advice given or information furnished by any member or officer of The Public Trustee in respect of the Tender.

The Public Trustee does not make any representations with respect to any future matter.

The tenderer does not rely in submitting the Tender, on any warranty or representation made by or on behalf of The Public Trustee except those expressly stated in the Conditions of Tender but has relied entirely on his or her own enquiries and judgement.

The Public Trustee will not be responsible for any costs or expenses incurred by any tenderer in preparing or lodging a Tender.

12. Settlement

A successful tenderer will be notified, by The Public Trustee, within one (1) working day of acceptance of a Tender by The Public Trustee and provided with a Tax Invoice requesting payment within five (5) working days. Payment is by way of **bank** cheque, payable to The Public Trustee at any Public Trustee Office branch or Clerk of the Court throughout Queensland. Payment may also be made by way of cleared funds deposited into The Public Trustee's bank account.

The settlement sum includes bid price, Stamp Duty and Administration Fee.

If the successful tenderer fails to pay the settlement sum as provided in this clause 12 then the acceptance of the tender shall be withdrawn ('the withdrawn tender'). The Public Trustee may reallocate the Operating Authorities to another tenderer and, the vendor may recover from the tenderer of the withdrawn tender as liquidated damages any deficiency in the tender price on a reallocation.

13. Allocation of Authorities

Operating Authorities will be allocated on the basis of the first Operating Authorities accepted into the various pools.

The first Operating Authorities into a pool will be the first Operating Authorities allocated to the successful tenderer.

The allocation will continue until all available Operating Authorities are allocated.

Conditions of Tender for Operating Authorities (continued)



14. Pricing

Prices tendered must:

- a. Be in Australian currency.
- b. Be GST inclusive.
- c. Not include Stamp Duty, Lodgement or Administration Fee.

15. Assessment of Tenders

The Operating Authorities are sold by way of a competitive tender process. Therefore Operating Authorities will be allocated firstly on the basis of the highest valid tender received in each region. Where two (2) or more identical bids for the same amount for each Operating Authority are received, the process as set out in section 8.3.2 of the Guidelines will be adhered to.

Section 8.2.4 of the Guidelines will apply if a minimum number of Operating Authorities is specified.