



CONTRACT WAIVER LETTER

USER NOTES – delete once letter is populated

Purpose: It is good practice (and often required by the terms of a written contract) for a waiver to be clearly recorded in writing, to avoid dispute later about the extent to which the other party has been formally relieved of its obligations by the Government party. This template letter has been prepared to assist Government parties to effect and record a simple waiver by a Government party of a right arising under an agreement with a non-government party (i.e. a supplier).

Waiver of a contractual right is where one party unilaterally abandons a right or claim by representing (by act or omission) that it will not enforce that particular right under the contract. In a Government context, in most cases the Government party will be waiving its right to require the other party to comply with one of its contractual obligations. Waiver (as opposed to formal variation of a contract or election to affirm a contract where material breach has occurred) is best suited to contractual terms dealing with the mode and manner of performance of an existing obligation, such as the method or time of payment or the method or time within which notice is to be given.

When to seek advice: This template is suitable for most non-complex and low-medium risk contracts. If the matter is complex, contentious or there is some doubt about the extent or consequences of the waiver, then specific legal advice from the Crown Solicitor's Office should be sought. Legal advice should be sought before waiving a right in relation to a breach of contract which would otherwise give right for the Government party to terminate the contract.

Take care: Regard should always be had to the terms of the agreement. In addition, particular care should be taken in considering the waiver of a right to receive money and in such cases, at a minimum, regard must be had to the requirements of Treasurer's Instruction 5 in relation to write-off or waiver of debts.

Practical tips: This template should be populated with as much specificity as possible, including by referencing clause numbers and limiting the waiver to a particular obligation over a particular time frame. Written waivers should be stored with the original agreement.

Signing the letter: This letter should be signed by a government officer who has authority on behalf of the Government Party to exercise rights under the contract.

Further information: Procurement SA
Contact Email: procurement@sa.gov.au

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Version: 1.0



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<Government Party letterhead>

<insert date>

<insert name>

<insert position>

<insert name of counterparty>

<insert ABN>

<insert email address>

BY EMAIL ONLY:

Dear <insert name>

<INSERT AGREEMENT NAME> AGREEMENT – WAIVER

I refer to the agreement between the <insert name of government party> (**Government Party**) and <insert name of counterparty> dated <insert date>, for <insert short description of contract> (**Contract**).

I confirm that the Government Party has agreed to waive compliance with the following requirement(s):

1. <insert requirement/obligation to be waived and identifying information (e.g. clause number) and, where relevant, the time period within which the requirement/obligation will be waived>.

<Insert name of counterparty> is not relieved from any other obligation under the Contract and in all other respects the terms and conditions of the Contract shall continue to apply.

Yours Sincerely,

<insert name and title of signatory (a government officer who has authority on behalf of the Government Party to exercise rights under the Contract)>