



## Purchase Order Terms and Conditions

These conditions together with any specification and special conditions provided by the Shire of Ravensthorpe ("the Shire") in connection with the supply of the goods or services ("the Contract Documents") and this purchase order shall constitute the contract documents and the entire terms of the Agreement.

### 1. The General Scope of Purchase Order Contract

This Purchase Order requires the Supplier to:

- 1.1 Supply goods or services as nominated as to sizes, quantities, quality and types;
- 1.2 Ensure that the goods or services delivered comply with the quality, size and nature specified in any Contract documents or correspondence agreed by the Shire's representative officer.
- 1.3 Supply the same for the amount or at the rates of charge referred to in this Purchase Order;
- 1.4 Comply in all respects with the Contract Documents (if applicable) concerning the sale, supply, delivery and payment of goods and services on this Purchase Order;
- 1.5 No goods will be paid for, received or acknowledged without the issue to the Supplier of an official Shire Purchase Order; and
- 1.6 Provide the Shire with a compliant tax invoice that complies with the relevant tax legislation and clearly references the relevant Purchase Order Number.

### 2. Delivery

This Purchase Order requires the Supplier to:

- 2.1 Delivery shall be made to such locations and at such time as shall be nominated by the Shire in this purchase order.
- 2.2 Upon delivery the Materials shall be accompanied by a delivery document with the Shire's order number nominated thereon. A separate tax invoice shall be sent to the Shire as soon as possible which shall state clearly the contents of the delivery, pricing including freight costs, and the Shire's order number and the requesting officer's details.
- 2.3 The Price shall be inclusive of all freight insurance and other charges in or in connection with the forwarding of the goods or services to the Shire.
- 2.4 All elements of the goods or services delivered by the Supplier shall be at the risk of the Supplier and no liability to pay for them shall arise until that element of the goods or service are approved by the Shire and delivery is accepted in writing or by counter-signature.
- 2.5 Should the supplier be at fault in the completion of a service or delivery as specified, upon return of any such element of the goods which are not acceptable to the Shire the Supplier shall reimburse the Shire for:
  - (a) Any amounts paid by the Shire on account of the price of the returned elements of the goods ; and
  - (b) Any costs incurred by the Shire in connection with the delivery or return of the relevant element of the returned goods.
- 2.6 The Supplier acknowledges that the Shire may terminate this Agreement if the Supplier does not provide the Goods and/or the Services within the date specified on the Purchase Order and the Shire shall not be liable to pay for any Goods and/ or Services which are delivered outside of the date specified on the Purchase Order (unless each of the parties have agreed in writing to extend the date).

### 3. Acceptance of Goods

All goods are accepted subject to checks and inspection with the Shire reserving the right to return any faulty or unsuitable item(s) and withhold payment for the returned items.

The Shire is only obliged to accept delivery of such goods or services that comply with the Purchase Order or Contract Documents.

All freight, insurance and other charges whatsoever in connection with the return of the goods or services and the delivery of a further supply of the goods or services shall be paid and borne by the Supplier.

### 4. Warranty

The Supplier warrants that all goods and services provided to the Shire:

- 4.1 Conform to the relevant description of the same contained in the Contract Documents or Purchase Order;
- 4.2 Shall be of good merchantable quality and for the known purpose for which they are sold;
- 4.3 Are new (unless otherwise specified);
- 4.4 Are fit for their intended purpose, where design services are included, the works being designed are fit for their intended purpose; and
- 4.5 Are free from all liens and encumbrances and the Supplier has a good marketable title thereto; shall be delivered by the due delivery date specified on this purchase order.

These warranties are in addition to any warranty or guarantee provided by the Supplier in respect of the relevant element of the Materials or implied by law. The Supplier must ensure that the Principal has the benefit of any manufacturer's warranties.

## **5. General Matters and Definitions**

- 5.1 Unless otherwise provided all references to sums of money shall be in terms of Australian currency, all documents and communications shall be in the English language and all references to measurements, quantities, dimensions and units shall be in terms of Commonwealth legal units.
- 5.2 The Supplier shall indemnify and keep indemnified the Shire from and against any liabilities, damages, remedies, losses, penalties, fines, costs, expenses (including reasonable legal fees and expenses), demands, claims and proceedings of any nature incurred by the Shire and arising directly or indirectly out of or in connection with:
- (a) Any claim or suit for alleged infringement of patents or copyright relating to any use or sale of Goods or;
  - (b) The failure of the Goods or Services to conform to or fulfil any term or condition of this Agreement; or
  - (c) The Supplier's performance or non-performance (including the performance or non-performance of any of the Supplier's employees, contractors or agents) of this Agreement including claims for personal injuries, death and property loss or damage and the claims or liens of workmen or suppliers of goods, except where such injury, death, damage or loss arises solely from the wilful misconduct of the Shire or the Shire's employees or agents.
- 5.3 The Supplier shall ensure that its supply and delivery of the goods or services satisfies all of the requirements of all relevant Western Australian and Commonwealth Acts of Parliament and all ordinances, regulations, by-laws, orders and proclamations made that are relevant to the purchase.
- 5.4 The Supplier shall ensure that its supply, delivery, installation, testing and commissioning of the goods and the supply, documentation and delivery of services complies with all relevant Codes and Standards in place at the time.
- 5.5 As-installed documentation, and/or testing, and/or commissioning, documentation is to be provided to the Shire at the completion of goods and services installation.
- 5.6 Unless expressly agreed to in writing by the Principal and referenced in the Contract, to the extent permitted by law, no other terms and conditions, including the Contractors own terms and conditions even where they have been provided to the Principal or signed by a representative of the Principal, will apply or have any legal effect in connection with the supply of the Goods, the performance of the Services, or the Contract.

## **6. Assignment**

The Supplier shall not, without the prior written approval of the Shire, assign the Contract or assign, mortgage, charge, encumber any of the moneys payable under this Purchase Order.

## **7. Insurance**

The Supplier warrants that it has obtained and maintains throughout the duration of this Agreement (including any Defects Liability Period) all applicable insurance cover(s) required by Australian law (Municipal, State and Commonwealth) and by this Agreement including but not limited to the following:

- (a) Goods; Transit and Material Damage Insurance (including freight and other charges), up until title and risk in the goods pass to the Shire; and
- (b) Where this Agreement includes the provision of Services which includes the giving of professional advice or instruction, design, formula or specification, the Supplier must effect and maintain throughout the term of this Agreement and for a period of not less than three (3) years after termination of the Agreement or completion of the Supplier's obligations under the Agreement, Professional Indemnity insurance with a minimum cover of not less than five (5) million dollars (\$5,000,000) for any one claim.

## **8. Terms of Payment**

The Shire shall pay the Price to the Supplier as soon as practicable on receipt of Invoice subject to:

- 8.1 The Price being in accordance with the Contract Documents;
- 8.2 The Goods and/or Services being received and accepted by the Shire as satisfying the Purchase Order Specification or Contract Documents;
- 8.3 A correct purchase order number being quoted on the tax invoice; and
- 8.4 Subject to any right of the Shire to retain, withhold, reduce or set-off any amount due to the Supplier, the Shire must pay all Invoices that comply with this purchase order contract within 30 days (or such other period as the Shire's Representative and Supplier agree) of the invoice date (as the case may be).

## **9. Confidential Information**

The parties shall ensure that there are kept confidential such documents, samples, models, patterns and other information which is disclosed directly or indirectly by the Principal to the Contractor or Contractors Personnel which is treated or designated as confidential, or which the Contractor or Contractors Personnel ought to know is confidential, other than to any of the Contractor's Personnel who need the information to perform the Services or deliver the Goods, to the Contractor's legal representative or where required by Law.

**10. Media**

The Contractor shall not disclose any information concerning the project for distribution through any communications media without the Principal's prior written approval (which shall not be unreasonably withheld). The Contractor shall refer to the Principal any enquiries from any member of the community or media concerning the project.

**11. No Waiver**

No failure or delay on the part of a party to exercise any right or remedy hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any such right or remedy preclude any other further exercise thereof or exercise of any right or remedy.