

## GENERAL CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS AND SERVICES

**1. General:** All additions and alterations to these General Conditions shall be in writing and attached as Special Conditions to the Purchase Order and Contract. In the event of any inconsistency between these General Conditions and any Special Conditions, the latter shall prevail.

**2. Price Basis:** The Purchase Order and Contract Price is firm subject to any other Special Conditions. Prices shall include customs duty (unless specifically exempt), packaging, marking, handling, freight and delivery (Free-in-Store), insurance, Goods and Services Tax where the Contractor is registered for GST, and any other applicable costs and charges.

The Contractor shall issue Woollahra Municipal Council (WMC) with a valid tax invoice in accordance with a *New Tax System (Goods and Services Tax) Act 1999, (the GST Act)*.

The Contractor is entitled to recover from WMC the amount of any GST payable on *taxable supplies*, within the meaning of the GST Act, provided under this Purchase Order and Contract.

**3. Payment of Accounts:** WMC standard terms of payment are 30 days from acceptance of the Goods and Services and receipt of a correctly rendered invoice. This may be varied where WMC accepts a discount offered by the Contractor for earlier payment.

**4. Performance of the Contract:** The Contractor shall deliver the Goods and provide the Services at the time and place specified in the Purchase Order and Contract. The Contractor shall ensure that the Goods and Services comply with all of the General Conditions of Contract and Special Conditions of Contract.

Variations to the Purchase Order and Contract must be in writing.

**Goods.** All Goods shall be new and comply with the highest relevant commercially accepted standards and be fit for purpose unless varied by a Special Condition.

WMC may reject, within a reasonable time, Goods that are faulty or do not fully comply with this Purchase Order and Contract. The Contractor shall make good or replace these Goods at no additional cost, including removal and incidental costs, within the time specified by WMC.

**Services.** The Contractor warrants that it will render the Services with due skill and care, and that materials supplied in connection with the Services will be fit for purpose.

If there is a defect in performance of the Services or they are incomplete, WMC may, by notice, require the Contractor to remedy the defect in performance, complete the Services, or re-do the Services at no additional cost to WMC. The Contractor has 30 days from the date of the notice to comply.

**5. Termination:** WMC may terminate the Contract in whole or in part when the Contractor: has not remedied a breach within the time specified in the notice of breach; becomes bankrupt or insolvent; or is unable to complete the contract.

**6. Warranties:** The warranty commences on the day of delivery or acceptance of the Goods and Services, whichever occurs last. It shall be valid for 90 days, or the length of the Contractor's or Manufacturer's standard warranty period, whichever is longer. The conditions and the period for completing warranty work that apply are the same as for the remedial work in Clause 4.

**7. Inspection and Source Quality Assurance:** To meet WMC requirements to verify compliance with the specified QA type, a WMC Representative may perform:

- Quality audits and quality surveillance as defined in ANZ/ISO 8402 of the quality system and/or the production processes; and/or
- Product inspections as defined in AS1199 of the completed Goods and Services before acceptance.

The Contractor shall provide the authorised WMC representatives with full and free access to; its premises and work areas, and all documentation appropriate to check compliance with this Purchase Order and Contract.

The Contractor shall provide all reasonable facilities and assistance at its own expense that WMC representatives may require for the purposes of this Clause.

All information accessed will be treated as strictly commercial-in-confidence

**8. Assignment/Subcontracting:** The Contractor must obtain the prior written approval of WMC to assign or subcontract the Purchase Order and Contract or any part thereof. Approval to assign or subcontract shall not relieve the Contractor from any of its obligations under the Purchase Order and Contract, or impose any liability upon WMC to an assignee or a subcontractor.

INSTRUCTIONS AND CONDITIONS SET OUT IN THIS PURCHASE ORDER MUST BE OBSERVED, OTHERWISE THE PURCHASE ORDER MAY BE CANCELLED.

### GENERAL DELIVERY REQUIREMENTS

Suitable and adequate packaging to be used for each material and all materials to be received in good condition.

**Delivery Dockets to show:**

- Quantity, description and name of material.
- Correct Woollahra Municipal Council Purchase Order Number.
- Delivery Docket Number and date (separate number for each delivery)

**Invoices:**

- All invoices must be complying Tax Invoices quoting:-
  - (1) Woollahra Municipal Council as the customer, and our Australian Business Number.
  - (2) The Supplier's ABN.
  - (3) The GST inclusive price of the taxable supply.
  - (4) The date of the Tax Invoice.

**Open/Flat-Top Truck Deliveries:**

- To be covered in order to avoid loss or damage during transport unless otherwise specified in the Contract.

**Bagged Deliveries:**

- Each bag to be marked with:
  - (1) Name of material.
  - (2) Net weight per bag in kilos.
- An agreed fixed quantity per pallet and standard palleting pattern on every delivery.

**Drummed Deliveries:**

- Side of each drum to be marked with:-
  - (1) Name of material.
  - (2) Name of supplier.
  - (3) Drum deposit and value if applicable.
- Side or top of drum to be marked with net weight (or net volume) and if possible tare and gross weight per drum in kilos.

**Pallets:**

- Pallet weight not to exceed 1,200kg per pallet.

**Hazardous Materials:**

- To be clearly identified. If insufficient warning is shown, goods may be rejected. (All hazardous materials are to be supplied with Material Safety Data Sheets).

**Safety:**

- All goods supplied must comply with the relevant Australian Standards and have WorkCover NSW Approvals where applicable. All goods must be supplied with safety instructions and Material Safety Data Sheets with respect to any chemical product.

**9. Title, Acceptance and Risk:** Title to the Goods vests in WMC on acceptance by WMC. The risk of any loss or damage to the Goods remains with the Contractor until delivery to or acceptance by WMC whichever is the later.

**10. Notices:** All notices, requests, variations, and other communications by both parties are to be in writing and delivered promptly to the appropriate addresses named in the Purchase Order and Contract.

**11. Existing Contracts and Standing Offers:** Where this Purchase Order and Contract is issued under the terms of a Standing Offer or to extend the terms of an existing contract, the terms of that Standing Offer or existing contract shall prevail. Special Conditions, where utilised, shall take precedence over both the terms of the Standing Offer and an existing Contract.

**12. Indemnity:** The Contractor agrees that it shall at all times indemnify and hold harmless WMC its officers, employees, and agents (those indemnified) against all losses and additional expenses including legal costs and expenses on a solicitor/own client basis, and liabilities reasonably incurred or suffered by those indemnified, caused by any wilful, unlawful, or negligent act or omission of the Contractor, its officers, employees, agents, or subcontractors in connection with this Purchase Order and Contract and which arises from any claim, suit, demand, action, or proceeding by any person. The Contractor's duty of indemnity to WMC under this Clause shall be reduced proportionately to the extent that any wilful, unlawful, or negligent act or omission of WMC, its officers, employees or agents contributed to the loss or liability.

**13. Waiver:** Failure by either party to enforce a provision of the Purchase Order and Contract shall not be construed as in any way affecting the enforceability in any other instance, or the enforceability of the Purchase Order and Contract as a whole.

**14. Applicable Law:** The Contract shall be governed by NSW Law and all disputes which may arise relating to or arising out of the Contract shall be submitted to arbitration in Sydney.

**15. Patents, trademarks, Copyrights and Registered Designs:** Sellers warrant that the subject of the Contract does not infringe any patent, Trademark, copyright or Registered Design and undertake to indemnify the Buyers against all damages, losses or cost suffered by them in respect of any claim made under any patent, Trademark, Copyright and Registered Design. Should a Buyer receive notice of any claim that the subject of the Contract infringes on any Patents, Trademarks, Copyrights and Registered Designs, the Buyers shall have the right to cancel the Contract.

**16. Insurance:** The contractor must take out and maintain Workers Compensation Insurance Policy in respect of its employees. The contractor is to submit a Subcontractor's Statement and a current copy of the insurance policy prior to commencing any works. Failure to submit this documentation may result in cancellation of the contract. Where the Contractor is providing goods & services to the Council, the Contractor must take out and maintain Public Liability Insurance for at least \$20,000,000.00 covering the Council and the Contractor against all claims of loss or injury arising from the delivery of the good or the performance of the services by the contractor, its subcontractor, employees or agents. The contractor agrees to have the Council endorsed as a named insurer under the public liability insurance policy.

**17. Social and Environmental Sustainability:** Council is committed using its procurement processes to drive positive sustainability outcomes, using our buying power to generate social, economic and environmental impacts beyond the financial value of goods and services procured. The Contractor must take reasonable steps (appropriate to their size and circumstance) to identify, address and implement sustainable procurement practices within their operations and supply chains.

**18. Risk Management and Work Health & Safety:** The contractor must comply with all relevant obligations with regard to the Work Health and Safety Act 2011 and WHS Regulation 2017 to manage risks to the health and safety of its employees, contractors or other personnel, including members of the public. The contractor must ensure they comply with all relevant obligations under the Protection of the Environment Operations Act applicable to the good or service provided.