

TERMS AND CONDITIONS OF PURCHASE ORDER

1. THE PURCHASE ORDER CONTRACT

These terms and conditions together with any specification ("Specification") or contract ("Contract") provided by Council in connection with the supply of these goods or services and the attached order ("Purchase Order") will constitute the contract documents and the entire terms of the purchase order contract ("Purchase Order Contract").

2. THE GENERAL SCOPE OF PURCHASE ORDER CONTRACT

This Purchase Order Contract requires the Supplier or Contractor to:

- 2.1 Ensure the goods or services supplied and delivered comply with the Purchase Order Contract including but not limited to size, quantities and types
- 2.2 Supply the goods or services for the amount or at the rates of charge referred to in the Purchase Order Contract.
- 2.3 Comply in all respects with the Purchase Order Contract concerning the sale, supply, delivery and payment of goods and services.
- 2.4 No goods or services will be paid for, received or acknowledged without the issue to the Supplier or Contractor of this form of official Council Purchase Order.

3. QUALITY

The quality of the good or services supplied or delivered will not differ from that specified in the Purchase Order Contract unless the change in quality is agreed to by the Council Principle in a written form specifically referring to the amendment of the quality.

4. STATUTORY REQUIREMENTS

The Supplier or Contractor will ensure that its supply and delivery of the goods or services satisfies all of the requirements of all relevant Acts of Parliament and all ordinances, regulations, by-laws, orders and proclamations made that are relevant to the purchase.

5. SAFETY DATA SHEETS

As per *Occupational Health & Safety Act 2004*, the Supplier or Contractor will provide all necessary information including but not limited to the chemical composition, safety measures and product treatment required via a Safety Data Sheet in the delivery of the goods or service to Council.

6. DELIVERY

- 6.1 Delivery must be made to such location(s) and at such time(s) as nominated by Council in the Purchase Order Contract.
- 6.2 Upon delivery the goods or service must be accompanied by a delivery document with the Council's Purchase Order number. A separate tax invoice must be sent to Council as soon as possible which states clearly the contents of the delivery, pricing, including freight costs, Council's Purchase Order number and the Council representative's name.
- 6.3 The price will be inclusive of all freight, insurance and other charges in or in connection with the provision of the goods or services to the Council.
- 6.4 All elements of the goods or services delivered by the Supplier or Contractor will be at the risk of the Supplier or Contractor and no liability to pay for them will arise until that element of the goods or service has been approved by Council and delivery is accepted in writing or by counter-signature.
- 6.5 Should the Supplier or Contractor be at fault in the completion of a service or delivery as specified in the Purchase Order Contract, upon return of any such element of the or service which are not acceptable to Council the Supplier or Contractor will reimburse the Council for:
 - (a) any amounts paid by the Council on account of the price of the returned elements of the goods ; and
 - (b) any costs incurred by the Council in connection with the storage, delivery or return of the relevant element of the returned goods.

7. TERMS OF PAYMENT

The Council will pay the price to the Supplier or Contractor as soon as practicable on receipt of an appropriate tax invoice subject to:

- 7.1 the price being in accordance with the Purchase Order Contract ;
- 7.2 the goods or services being received and accepted by Council satisfy the Purchase Order Contract;
- 7.3 Goods and Services Tax being included in the Price.
- 7.4 The correct Purchase Order number being quoted on the tax invoice.
- 7.5 Council's terms of trading, unless mutually agreed upon in writing with the Council representative at the time of ordering, will be nett 30 Days payment.

8. ACCEPTANCE OF GOODS

- 8.1 All goods and services are subject to check and inspection, and Council reserves the right to return any faulty or unsuitable goods or service and withhold payment.
- 8.2 Council is only obliged to accept delivery of such goods or services as comply with the Purchase Order Contract. If the delivery of the good or service do not comply with same in any respect the Supplier or Contractor will if so required by Council remove all such rejected elements of the materials and replace with a delivery of the goods or service acceptable to the Council.
- 8.3 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 service will be paid and borne by the Supplier or Contractor.

9. SAMPLES

Council may require, as a condition of delivery of any part of an order of goods or services that the Supplier or Contractor supply a sample of the relevant goods or services for approval by the Council. In the event that such a sample is produced and approved, any delivery is referable to the sample and will be consistent with that of the approved sample.

10. PROPERTY IN THE MATERIALS

Where any part or progress payment for the goods or service is made by Council the entire title of the goods or services will pass without exclusion or limitation but subject to the Council's right to subsequent rejection in the event that the relevant goods or services is discovered to not comply with the terms of the Purchase Order Contract.

11. WARRANTY

The Supplier or Contractor warrants that all of the goods or services delivered to the Council:

- 11.1 will conform to the relevant description of the same contained in the Purchase Order Contract;
- 11.2 are of good merchantable quality and fit for purpose;
- 11.3 are new (unless otherwise specified);
- 11.4 are free from all liens and encumbrances and the Supplier or Contractor has title;
- 11.5 will be delivered by the due delivery date specified on the Purchase Order Contract.

These warranties are in addition to any warranty or guarantee provided by the Supplier or Contractor in respect of the Specifications, Contract or implied by law.

12. GENERAL MATTERS AND DEFINITIONS

12.1 Unless otherwise provided all references to sums of money will be in terms of Australian currency, all documents and communications will be in the English language and all references to measurements, quantities, dimensions and units will be in terms of Commonwealth legal units.

12.2 The laws in force in the State of Victoria will apply to this Purchase Order Agreement and the parties will submit to the jurisdiction.

13. ASSIGNMENT

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

14. PART ACCEPTANCE OF ORDER

Where the Council has accepted an element of the goods or service that constitute part of a "Materials Request" the Council will pay the Contractor or Supplier that part of the purchase price attributable to that element of the goods or services accepted.

15. NO WAIVER

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

16. SPECIAL CONDITIONS

Any special conditions that the Council incorporates on the Purchase Order Contract will be incorporated in the event the Supplier or Contractor will make delivery of the goods referred and in the event of any inconsistency with these Purchase Order Contract such special conditions will prevail.

17. TIME OF THE ESSENCE

Time will be of the essence