

# Purchasing Standard Terms and Conditions

## 1. General

These conditions apply to any Order for goods or services (or both) (“**Product**”) placed by the Council (whether as an offer or acceptance of an offer) and must be read with any contract specified in an individual order. If there is any inconsistency between these conditions and the contract, the contract will prevail.

## 2. Quality & Delivery

The Supplier must:

- (a) pack and transport the Product safely and appropriately to protect it from damage; and
- (b) Deliver the Product by the date, to the place and in the quantity as specified in the Order.

## 3. Ownership & Risk

- (a) Title in the Product will pass to the Council on delivery.
- (b) The Supplier assumes all risk in the Product until it is accepted by the Council.

## 4. Warranties

- (a) In addition to any warranties implied by law, the Supplier warrants that the Product:
  - (i) is free from defects in material and workmanship and of merchantable quality.
  - (ii) is of the description and quality specified in the Order.
  - (iii) is fit for purpose.
  - (iv) complies with all applicable Australian standards and legislation; and
  - (v) Does not infringe any patent, registered design, trademark or name, copyright or any other protected right.
- (b) The Supplier will ensure that any warranty offered by a manufacturer of the Product is enforceable by the Council.

## **5. Acceptance & Rejection**

- (a) The Council may, at any time before acceptance, reject the Product if the Council believes the Product is defective or does not meet the Order. The Council may unpack, inspect and test the Product for this purpose.
- (b) The Council may, at any time after acceptance, reject the Product if the Council believes the Product is defective or does not meet Order, provided that the defect could not have been discovered by reasonable inspection before acceptance.
- (c) If the Council rejects the Product (or any part of the Product) the Supplier must comply with a requirement of the Council to:
  - (i) collect the defective Product and replace it at the Supplier's expense; or
  - (ii) Refund the Council any amount paid for the defective Product.

## **6. Cancellation**

- (a) If the Supplier is unable to supply the Product as specified, it must promptly notify the Council. Subject to the Council's approval of the price and quality before delivery, the Supplier may offer another Product in substitution.
- (b) The Council may (at any time before delivery), cancel or change the Order. If this occurs, and:
  - (i) the change causes an increase or decrease in the cost of the Product, or time required to deliver the Product, an equitable adjustment will be made appropriate to the circumstances.
  - (ii) The Supplier has already incurred expense in satisfying the Order, the Council will pay the Supplier's reasonable expenses.

## **7. Price, Payment Terms, GST**

- (a) The price in the Order is inclusive of all taxes (including GST), insurance, freight and delivery costs.
- (b) Upon receipt of a correctly rendered tax invoice, the Council will pay the Supplier in accordance with its standard trading terms, being 20 days after receiving invoice.
- (c) An invoice will be correctly rendered if it:
  - (i) identifies the Order number; and
  - (ii) is a tax invoice for GST purposes.

## **8. Termination by Council**

The Council may terminate an Order at any time by notifying the Supplier in writing, if the Supplier:

- (a) becomes insolvent as defined by the Corporations Act 2001; or
- (b) fails to comply with any of these conditions.

## 9. Indemnity

The Supplier indemnifies the Council against any loss or damage arising out or in connection with an act or omission of the Supplier in supplying the Product or its obligations or warranties under these conditions.

## 10. General

- (a) The Supplier must not assign the benefit of the Order without the Council's prior written approval.
- (b) No variation of the Order will be binding on the Council unless in writing and signed by a duly authorised representative of the Council.
- (c) The Council's failure or delay to enforce a condition, or to exercise a right or remedy for breach, is not a waiver of any other breach.

These conditions will be governed by the law of New South Wales and the parties submit to the jurisdiction in that State.

## 11. Modern Slavery

- (a) Supplier warrants that:
  - (i) It will not supply any goods and/or Work or Services it knows (or ought to know through the making of reasonable inquiries) are the product of; and
  - (ii) It does not use any labour practices involving, Modern Slavery
- (b) If Supplier is a reporting entity for the purposes of any state or Federal Modern Slavery legislation, including the Modern Slavery Act 2018, it must provide Council with a copy of any report it is required to prepare under that legislation at Council's request.
- (c) For the purpose of clause 11 "Modern Slavery" has the meaning given in section 4 of the Modern Slavery Act 2018, and includes any form of slavery, servitude, debt bondage, deceptive recruitment practices, or forced labour to exploit children or other persons.

## 12. Definitions

**"Council"** means Shoalhaven City Council

**"Order"** means the purchase order issued by the Council including any relevant specifications and accepted by the Supplier.

**"Supplier"** means the legal entity to which the Order is addressed.

**"Delivery"** means deliver and unload the Goods, or perform and complete the work or services, at the delivery place in accordance with clause 2.

**"GST"** means the tax payable on taxable supplies under the GST Law.