

Purchase Order Terms and Conditions



MERCHANDISE Means all goods, chattels, plant, equipment, machinery, stores and the like.

PURCHASER means City of Subiaco.

CONTRACT This form when properly signed and bearing an order number is the only form which will be recognised by the Purchaser as authority for charging merchandise and services to its account and supersedes all previous communications and negotiations. This form, together with all documents attached hereto or incorporated therein by reference to as the Purchase Order Documents constitute the entire terms of order. No terms stated by seller in accepting or acknowledging this order shall constitute a waiver to any of these Terms and Conditions.

CONDITIONS None of these Terms & Conditions shall be varied, waived, discharged, or released unless by the express consent of the Purchaser in writing.

QUANTITY The quantity of the merchandise delivered shall not be greater than the amount specified unless an additional amount is authorised by the Purchaser. The Purchaser may return excess quantities to the Seller at the Seller's expense.

PACKAGING Unless otherwise specified, merchandise to the Purchaser is to be packaged in a manner sufficiently robust to ensure safe delivery to the required delivery point(s).

BRAND Where a particular brand is specified that brand shall be supplied unless otherwise approved by the Purchaser.

PRICES Prices shall be firm unless otherwise stated on the purchase order. All prices, charges and costs are shown in Australian Dollars. They are understood to include all customs, excise and other duties otherwise stated.

PAYMENTS Payments will be made in accordance with the Purchase Order Documents which unless otherwise specified will be **nett 30 days**. Nett 30 days means 30 days from the end of the month in which the invoice is received by the Purchaser.

DELIVERY If delivery cannot be made in accordance with instructions, the Purchaser shall be notified immediately. The Purchaser reserves the right to cancel this order or part thereof, if delivery is not completed within the time specified or within a reasonable time if delivery date is not specified.

INVOICES The Purchaser seeks one order, one invoice. Invoices must show the correct order number, the name of the Purchaser or other designation to which the merchandise was delivered or shipped.

TERMINATION FOR DEFAULT In the event of a breach by the Seller of any of the terms of this order, including the Seller's warranties, the Purchaser may at its option and without prejudice to any of its other rights cancel any undelivered merchandise.

WARRANTY Seller warrants that the merchandise will conform to its description and any applicable specifications, shall be of good merchandise quality, and fit for the known purpose for which it is sold. This warranty is in addition to any warranty or Service Guarantee stated in the Purchase Order Documents.

STANDARDS All merchandise delivered shall be according to samples (if any) and comply with all occupational health and safety standards and other standards specified. Materials differing in quality, quantity or price will not be accepted by the Purchaser without prior approval. Where no standards are specified merchandise shall be in accordance with the relevant current standard of the Standards Association of Australia.

PATENTS, TRADEMARKS AND COPYRIGHTS Seller warrants that the sale or use of this merchandise will not infringe or contribute to the infringement of any Patents, Trademarks or

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Copyrights in either Australian or Foreign Countries. Seller shall indemnify Purchaser against any loss or damage including attorney's fees and other costs of defending an action from breach of this warranty.

SELLER Seller warrants that the merchandise is free and clear of all liens and encumbrances and that the Seller has a good and marketable title to same.

SAFETY, HEALTH AND FIRE PROTECTION The seller/supplier shall take all reasonable precautions to protect the safety and health of all workers, volunteers and members of the public. The seller/supplier whilst working for the City will be required to comply with all of the City's policies, procedures, safety rules and personal protective equipment requirements. The supplier will act in a manner to minimise safety and/ or health risks from all hazards and in doing so shall comply with all national, state and local health, safety and fire protection laws, regulations and requirements (including reporting requirements). Where the seller fails to comply with legislative regulations or requirements the City may without prejudice to any other legal or contractual rights issue an order to stop all or any part of the work. The City at its own discretion may issue a start order for resumption of work. The Seller/supplier shall not make a claim for extension of time or for compensation of damages by reason of or in connection with such work stoppage.

INDEMNITY Seller shall to the full extent permitted under applicable law, indemnify, save harmless and upon request, defend Purchaser, and their respective officers, employees and representatives from and against all claims, legal actions, damages, liabilities, fines, penalties costs and expenses (including attorney's fees) of whatsoever kind or character, including but not limited to loss of or damage to property and injury or death of persons arising out of or by reasons of any act, omission, fault or negligence of Seller or Seller's officers, employees, agents or subcontractors in connection with or incidental to this Purchase Order or the services.

STATE LAWS All purchases shall be governed by the laws of the State of Western Australia.

ARBITRATION Any dispute or difference arising out of this contract shall be referred to an Arbitrator to be mutually agreed upon or failing agreement by an Arbitrator appointed in accordance with the provisions of the Commercial Arbitration Act 1985.

PRECEDENCE Where the goods or service is under contract, the general Terms and Conditions of contract issued at that point in time will take "precedence" over the above "Terms and Conditions".