



Terms and Conditions for Supply of Goods/Services

These terms and conditions are to be read together with the applicable Hawkesbury City Council (Council) purchase order, policy guidelines and/or requirements specification incorporated by reference or as published on council's website from time to time www.hawkesbury.nsw.gov.au

These terms and conditions govern the purchase of goods and/or services by Council from the person or entity named (Contractor) on the applicable purchase order. By accepting to supply the items or carry out the services described in a Council purchase order, Contractors agree to be bound by and accept these terms and conditions.

1. **Other Documents.** These terms and conditions may not be altered, supplemented, or amended by the use of a Contractor invoice or other Contractor document unless agreed in writing by the Council. Council may change these terms and conditions as they relate to future purchases at any time without prior notice. Where the purchase order is for the supply of goods and/or services in relation to a specific signed contract between the Council and Contractor, and where these terms and conditions conflict with that contract, the terms and conditions of that contract shall have precedent and prevail over these terms and conditions.
2. **Governing Law, Place of Sale and Taxes.** These terms and conditions and all related transactions will be governed by and construed in accordance with the laws of New South Wales and the parties hereby irrevocably submit to the non-exclusive jurisdiction of the courts of the State. The place of sale for all Goods/Services supplied under these terms and conditions is Australia. The Contractor is to show Goods and Services Tax (GST) as may be payable clearly on the invoice.
3. **Payment Terms.** Unless otherwise approved in writing by Council, payment shall be made in Australian dollars, by either cheque or Electronic Funds Transfer (EFT) into the Contractor nominated bank account within 15 business days after submission of a valid payment claim, provided that all goods, services or works so described have been received and/or completed to the satisfaction of Council. Contractor may not invoice for part delivery of an order. Failure to quote the Purchase Order Number on invoices may see the invoice rejected.
4. **Freight.** All goods will be delivered free unless otherwise agreed by Council.
5. **Title.** Unless otherwise agreed, title to the goods as specified in the order will pass to Council upon delivery of those goods to Council.
6. **Cancellation of Order.** Council may cancel an order or part thereof, in its absolute discretion, if the goods and/or services to be provided by the Contractor are either; not provided and/or not completed by the date specified in the order, or; the goods and/or service does not comply with the description, specifications and/or drawings attributed to the order.
7. **Warranties.** Contractor warrants that:
 - a) all data and information provided in connection with the goods will be true and accurate and that the goods will be of sound merchantable quality and fit for the purpose so stated
 - b) Council will obtain full, unencumbered title to the goods
 - c) all goods will conform to insurance requirements as applicable, Government Work, Health and Safety regulations and Australian Standards, including those administered by Work Cover NSW and the Environmental Protection Authority
 - d) all services will be provided in a competent manner
 - e) they will comply with and ensure that its employees, sub-contractors and agents comply with any Acts, regulations, local laws and by-laws, Codes of Practice, Australian Standards and Work Health and Safety standards and procedures of Council as may be in effect from time to time and which are in any way applicable to an order or the performance of services under a purchase order
 - f) the sale or use of all goods does not infringe upon any patent, registered design, trade mark or copyright or other intellectual property and the Contractor and its agents holds Council and



its agents harmless against any infringement of an intellectual property, and agrees to indemnify Council against all costs and damages incurred in any action arising from such infringement.

8. **Insurances.** The Contractor must hold and maintain the following liability policies of insurance for the term of the contract, or such other period as may be specifically required:
 - a) Public Liability Insurance for at least \$10 million in respect of each claim
 - b) Products Liability Insurance (if applicable) for at least \$10 million for the total aggregate liability for all claims arising out of the Contractor's products for the period of cover
 - c) Workers Compensation Insurance in accordance with the applicable legislation for the Contractor's employees
 - d) any other type of policy of insurance the Contractor would reasonably be expected to hold by a prudent operator of a similar business as that of the Contractor.
9. **Entire Agreement.** The Contractor agrees that these terms and conditions and any document incorporated by reference or referred to herein constitute the entire agreement between the Contractor and Council pertaining to the subject matter of these terms and conditions, and supersedes, terminates and otherwise renders null and void any and all prior agreements, understandings, negotiations, contracts, proposals or requests for proposals, whether written or oral, between Contractor and Council except as stated in Clause 1.
10. **Severability.** If the whole or any part of these terms and conditions is void, unenforceable or unlawful, that part is severed and the remainder of these terms and conditions has full force and effect.
11. **Headings.** The headings used herein are for convenience of reference only and do not form a part of these terms and conditions, and no construction or inference shall be derived there from.
12. **Force Majeure.** Council shall not be liable for any delay or failure in performance caused by circumstances beyond its direct control.
13. **Confidentiality.** The Contractor must not at any time, including at any time after completion of this contract, disclose to any person, firm or corporation, details of this contract, order, transaction, or any other information arising from this order without the written permission of Council except in the circumstance covered in Clause 14.
14. **The Government Information (Public Access) Act 2009 (GIPA)** provides obligations on private sector bodies entering into a contract with the Council to provide an immediate right of access to information. Contractors may, to the extent required by that Act, be subject to disclosure. Any failure by the Contractor to comply with any request pursuant to the Act will be considered a breach of an essential term and will allow the Agency to terminate the Contract by providing notice in writing of its intention to do so with the termination to take effect seven days after receipt of the notice. Once the Contractor receives the notice, if it fails to remedy the breach within the seven day period to the satisfaction of the Agency, then the termination will take effect seven days after receipt of the notice.