



## TERMS AND CONDITIONS OF PURCHASE

### Definitions

In these Terms and Conditions, unless inconsistent with the subject matter, the following definitions apply:-

- “Contracts” includes the Purchase Order and any documentation attached to, or referred to, in the Purchase Order, including these terms and conditions.
- “Merchandise” includes all goods, chattels, plant, equipment, machinery, stores, services and the like.
- “Buyer” means Shire of Augusta Margaret River.
- “Seller” means the firm, corporation or party named on the Purchase Order from whom the Merchandise has been ordered.

### General Conditions

#### 1. Commitments

The Contracts overrule all prior understandings and communications in regard to the subject matter contained in the contracts.

#### 2. Amendments

Any variation to the provisions, particulars and terms of the Contracts is subject to acceptance by the Finance Manager or other nominated representative of the Buyer.

#### 3. Quantity

The quantity of Merchandise delivered shall not be more than the amount specified, unless the additional amount is first ordered by the Buyer on a Purchase Order. The Buyer is under no obligation to buy, and (except in the case of services) may return any excess quantities to the Seller at the Seller’s expense. In the case of services, the Buyer may repudiate, at the Seller’s expense, any such excess services.

#### 4. Quality

All Merchandise supplied by the Seller must comply with the provisions of any Acts or Regulations which may be relevant, and must be fit for its intended purpose.

#### 5. Inspection and Acceptance

Merchandise is subject to inspection and approval within a reasonable time following delivery or provision. If specifications are not met the Merchandise may be rejected by the Buyer and (except in the case of services) returned at the Seller’s expense. In the case of services, the Buyer may repudiate, at the Seller’s expense, any such unapproved services.

#### 6. Inspection in Progress

The Buyer shall have the right to inspect the Merchandise at any stage of design, manufacture or installation or provision. This condition also applies to all approved subcontract work let by the Seller. The Buyer shall have the option to reject any work performed or being performed that does not conform to specifications detailed in the Contracts. Any rejected work shall be redone at no additional cost to the Buyer. Such inspection does not relieve the Seller of any further obligations in respect to the Purchase Order.

#### 7. Termination for Default

In the event of a breach of any terms or conditions of the Contracts by the Seller or the appointment of a controller or liquidator of the Seller or over any of its assets or the bankruptcy of the Seller, the Buyer may, at its discretion and without limiting any other recourse, cancel any undelivered or un-provided Merchandise.

## **8. Cancellation**

The Buyer may, at its discretion, cancel any undelivered or un-provided Merchandise. In that event the Buyer shall only be required to take delivery or accept provision, of, and pay for, Merchandise which has been expressly manufactured to the specifications of the Buyer and will not be required to accept, or pay for, standard stock.

## **9. Plans, Patterns, Moulds, Castings**

All plans, patterns, moulds, castings and other design equipment provided by the Buyer, to enable the Merchandise to be manufactured or provided, remain the property of the Buyer. Such plans, patterns, moulds, etc are to be returned to the Buyer upon completion of the current orders.

## **10. Transportation**

Merchandise shall be packed, marked and transported as specified in the Contracts. Otherwise merchandise to be so packed as to arrive in perfect condition. The Seller shall be liable for any additional freight charges arising from its failure to comply with this clause.

## **11. Terms and Services**

The following shall apply where the Seller provides merchandise to the Buyer and is to be read in conjunction with other terms and conditions of the Contracts in so far as they are not in conflict.

- a) The merchandise shall be done in a proper and workmanlike manner with minimal disruption to the Buyer.
- b) The merchandise shall be done by the required date shown on the Contracts.
- c) The Seller shall maintain the area at which the services are provided in a safe, clean and tidy condition at all times and provide measures to ensure the safety of the public including the provision and maintenance of all necessary barricades, guards, fencing, temporary roadways and footpaths, signs, lighting and any other measures necessary to ensure the safety of the public.
- d) The Seller shall leave the area at which the services are provided in a safe, clean and tidy condition after completion of work.
- e) The Seller shall have current public liability and/or products liability insurance cover to meet their business requirements or the requirements of the Contracts.
- f) The Buyer may request, in which case the Seller shall provide, a 'certificate of currency' in proof of the above insurance cover.

## **12. Independent Contractor**

The Seller delivers or provides the Merchandise as an independent contractor and not an employee of the Buyer and has no authority to represent or act on behalf of the Buyer

## **13. Statement of Purchasing Ethics**

The Seller must read, accept and adhere to the standards set out in the Buyer's 'Statement of Purchasing Ethics' as part of their engagement with the Buyer. A copy of the Statement of Purchasing Ethics can be obtained from the Buyer's website (<http://www.amrshire.wa.gov.au/council/publications/download/361/>). Sellers must note that improper or unethical conduct as outlined in the Statement could lead to the Purchase Order being terminated or loss of future work with the Buyer.

## **14. Occupational Health and Safety**

The Seller will ensure the Merchandise is delivered or provided in accordance with the provisions of the Occupational Safety and Health Act 1984 and its associated regulations and codes of practice.

The Seller will also ensure that all personnel providing the services of the Contracts comply with the Occupational Health and Safety requirements and directions of the Buyer for the area to which the Merchandise is delivered or provided.

## **15. Security**

The Seller will ensure that all personnel providing the services comply with all security requirements for the area to which the Merchandise is delivered or provided.

#### **16. Delivery Docket**

Merchandise must be delivered to the delivery destination as designated on the Contracts. Description of the Merchandise, quantity and Purchase Order number must be stated on a Delivery Docket, which is to accompany the Merchandise where possible. The Seller must ensure that Merchandise is checked and the Delivery Docket signed by an employee of the Buyer.

#### **17. Tax Invoices**

All Tax Invoices must contain the relevant minimum requirements as determined under the GST Legislation (A new Tax System – Goods and Services Tax) Act 1999.

All Tax Invoices must also include reference to: -

- Purchase Order number,
- Quantity,
- Price per unit, and
- Total Invoice value.

All Tax Invoices MUST be sent or supplied by the Seller to:- Accounts

Payable Officer  
Shire of Augusta Margaret River  
PO Box 61  
Margaret River WA 6285  
creditors@amrshire.wa.gov.au

Failure by the Seller to comply with this clause may delay payment.

#### **18. Payment**

Unless otherwise negotiated between the Seller and the Manager Finance of the Buyer, and providing the Seller complies with clause 17, payment will be made in accordance with the agreed payment terms or by 30 days from date of invoice or date of completed delivery, or provision, of the Merchandise.

#### **19. Legal**

The Contracts shall be read in conjunction with, and not in derogation of, the provisions of any law of Western Australia or the Commonwealth.

#### **20. Successors**

The Contracts shall continue with any successor of the Buyer (including without limitation on dissolution of the Buyer or its amalgamation with another local government) if the Buyer so elects.

#### **21. Confidentiality**

The Seller must not during or after the term of the Contracts, divulge or make use of any confidential information of the Buyer other than for the purpose for which that information is specifically provided by the Buyer.

#### **22. Approvals**

The Seller must obtain all approvals, consents, permits and pay all costs and charges that are necessary to provide or deliver the Merchandise and comply with all of its other obligations under the Contracts.

#### **23. Injuries**

The Buyer will not be responsible for any loss or damage resulting from injuries sustained to any employee of the Seller or any of its agents or subcontractors in providing the Merchandise.