

Shire of Esperance Purchase Order

Terms and Conditions



1. Definitions

Goods means any goods, materials, supplies equipment or other items set out in the Purchase Order.

Services means any services set out in the Purchase Order, including the delivery of any goods and performance of services ancillary to the Services.

Purchase Order means the Shire's purchase order form for the Goods or Services.

Supplier means the party described as such in the Purchase Order.

Shire means Shire of Esperance.

Terms and Conditions means these Terms and Conditions.

2. Provisions of Goods or Services

The supplier must provide the Goods or Services to the Shire in accordance with these Terms and Conditions and any instructions specified in the Purchase Order. If delivery of any Goods or Services cannot be made in accordance with instructions, the Shire shall be notified immediately. The Shire 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 the delivery date is not specified. Unless otherwise specified, Goods are to be packaged in a manner sufficiently robust to ensure safe delivery to the required delivery point(s).

3. Warranties by Supplier

The Supplier warrants that the Goods supplied will be fit and sufficient for the purpose intended, to be of merchantable quality and to be free from defect in material and workmanship. In addition the Supplier is capable of passing title in the Goods free of encumbrances and all other adverse interests at the time they are supplied to the Shire.

The Supplier warrants that the Services will be supplied with all due care and the Supplier has the qualifications, experience and expertise represented to the Shire. In addition the Supplier has no conflict of interest in supplying the services and the services will conform to the reasonable requirements of the Shire.

4. Termination

The Shire may, at any time, by giving written notice to the Supplier, terminate the Purchase Order and the Supplier must on receipt of such notice immediately cease all work in connection with the supply of the Goods or Services and take all appropriate action to mitigate any loss or prevent further costs being incurred. In such event the Shire will pay for all Goods supplied and Services performed up to the date of termination and the reasonable fees and expenses of the Supplier in accordance with the Purchase Order but not any loss of prospective profits. In no circumstances must the fees or expenses payable exceed the fees or expenses that would have been paid had the Purchase Order been completed.

5. Tax Invoices

The Shire requires that all Suppliers provide a compliant tax invoice which includes:

- The Purchase Order number
- The Suppliers name, address and ABN
- Quantity of Goods or Services
- Price per unit
- Total invoice value inclusive of GST if applicable
- Any further information reasonably requested by the Shire

If the Supplier is not registered for GST and does not have an ABN, the Supplier invoice must be submitted with a Statement by Supplier form.

6. Payments

Payments will be made net 30 days which means 30 days

from the end of the month in which the tax invoice is received by the Shire. For example, if a tax invoice is dated anytime in January, it is paid at the end of February at the latest.

7. Confidentiality

Both the Supplier and the Shire will not disclose, and will ensure that its employees, agent and contractors do not disclose, any confidential information relating to the other or its affairs which may come to its or their knowledge during the term.

8. Variations

The Supplier must not change the Goods or Services, including an addition, reduction or omission to any part of the Goods or Services except in accordance with a written direction of the Shire in which case the Supplier must comply with that direction and price will be adjusted by an amount agreed in writing by the parties.

9. Rejection of Goods or Services

The Shire may reject any of the Goods or Services which do not comply in all respects with this Purchase Order. The Shire is not required to make payment for any rejected Goods or Services.

10. Defects

At any time prior to the expiry of the defects liability period, the Supplier must, at its cost and at the Shire's direction, promptly rectify all defects other than a defect caused by the negligence of the Shire.

11. Insurance

Before the Supplier commences the supply of Goods or Services, the Supplier shall obtain insurances as set out in the request documentation, or in the absence of which, adequate and sufficient insurance to protect the interests of the Supplier and the Shire under this agreement, including without limitation, public liability insurance and workers' compensation insurance. The Supplier shall maintain such insurances for the duration of this agreement, and if necessary thereafter for such time as is reasonable.

The Supplier shall effect and maintain any other insurances as the Shire may reasonably instruct, including without limitation, professional indemnity insurance or any other insurance. The Supplier must produce on demand by the Shire, evidence satisfactory to the Shire that the insurances referred to have been obtained and are being maintained by the Supplier. If the Supplier fails to produce such evidence, the Shire may itself effect the insurance and the premium of such policies shall be a debt due and owing from the Supplier to the Shire. If the Shire requests evidence of insurance from the Supplier, no money shall be payable to the Supplier under this agreement until such time as the request has been complied with by the Supplier.

12. Indemnity

The Supplier shall to the full extent permitted under applicable law, indemnify and hold harmless the Shire, its Councillors, and staff from and against all claims, legal actions, loss, damages, liabilities, fine, penalties costs and expenses (including legal fees) occasioned by or arising from its performance of its obligations under the Purchase Order, including, without limitation, any acts or omissions of the Supplier's agents and employees. The indemnity in this clause is reduced to the extent the loss or liability is caused or contributed to by the Shire.

13. Statutory Requirements

The Supplier and the Shire must obey and must ensure that its employees, sub-contractors and agents obey any Acts, regulations and local laws in any way applicable to the performance of this Purchase Order, including, without limitation, any occupational health and safety legislation.

14. State Law

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