

STANDARD TERMS AND CONDITIONS FOR SUPPLY OF GOODS AND/OR SERVICES



1. GENERAL

- a. These terms and conditions apply to any supply of **Goods** and/or **Services** to Murray River Council (MRC) and related entities for individual purchasing activities that are not subject to existing contracts with **MRC**.
- b. By accepting a **Purchase Order (PO)** or agreeing to supply **Goods** and/or **Services**, the **Supplier** agrees to be bound by these terms and conditions and a contract is created between the **Parties**.
- c. For the avoidance of doubt these terms and conditions will override any terms and conditions of the **Supplier** unless **MRC** otherwise agrees in writing.

2. PURCHASE ORDERS

The **PO** number supplied by **MRC** at the time of purchase must be quoted on all correspondence to **MRC** including in invoices.

3. DELIVERY

- a. All **Goods** as specified in the **PO** are to be delivered by the **Supplier** to the nominated location on the **PO**, by the date specified in the **PO** or within a reasonable time from that date.
- b. All **Goods** must be accompanied by a corresponding delivery docket from the **Supplier** showing:
 - i. the name, quantity, description, and of the **Goods**,
 - ii. the correct **PO** number, and
 - iii. the delivery docket number and date (one for each delivery).
- c. Any hazardous and/or dangerous materials must be clearly marked as such and supplied with a relevant Safety Data Sheet.
- d. All relevant safety instructions, training and/or operations manual (or similar) must be provided at the time of delivery.
- e. The **Supplier** agrees to abide by **MRC** safety policies and all relevant occupational health and safety and environmental laws.
- f. **Suppliers** that utilise or are part of the heavy vehicle transport industry (vehicles over 4.5 tonne) need to comply with the National Heavy Vehicle Law Chain of Responsibility regulations.

4. VARIATIONS AND CANCELLATION

- a. The **Parties** may, during the course of supplying **Goods** and/or **Services**, agree to variations or cancellation of that supply. Any agreed variation or cancellation must be recorded in writing (electronic formats accepted) and signed by the **Parties**.

- b. If **MRC** makes a variation or cancels a supply, the **Supplier** may make a written claim for extra costs which **MRC** may consider, at its absolute discretion.
- c. **MRC** may terminate the contract immediately if the if the **Supplier** fails to deliver the **Goods** or **Services** as specified in the **PO**, or fails to adhere to these terms and conditions
- d. **MRC** may terminate a contract to purchase at any time by notifying the **Supplier** in writing, if the **Supplier** becomes insolvent as defined by the Corporations Act 2001

5. SUBCONTRACTING OF AGREEMENT

The **Supplier** must not subcontract any part of the supply of **Goods** and/or **Services** without the written approval of **MRC**.

6. WARRANTIES

- a. In addition to any warranties implied by law, the **Supplier** warrants that:
 - i. the **Goods** and/or **Services** are free from defects in material and workmanship, and are fit for purpose and is of merchantable quality,
 - ii. the **Goods** are new (unless specifically requested to be other than new by **MRC**),
 - iii. the **Goods** and/or **Services** are of the description and quality specified in the **PO**,
 - iv. in performing the **Services**, the **Supplier** will exercise due skill and care,
 - v. the **Goods** and/or **Services** are compliant with all applicable Australian standards and legislation,
 - vi. the **Goods** and/or **Services** are not infringing on any patent, registered design, trademark or name, copyright, or any other protected right,
 - vii. the warranty offered by a manufacturer of the **Goods** is enforceable by **MRC**, and
 - viii. the **Goods** and/or **Services** are free from any charge or encumbrance in favour of any third party not declared or known to **MRC** before or at the time the **PO** is made.
- b. If there is a defect in the **Goods**, or in the performance of the **Services**, or if the performance of the **Services** is incomplete, or if there is a breach by the **Supplier** of a warranty, **MRC** may, by notice, require the **Supplier** to remedy the defect, replace the **Goods** or complete the **Services** at no additional cost to **MRC**. The **Supplier** has thirty (30) days from the date of the notice to comply.

7. OWNERSHIP AND RISK

- a. Title will pass to **MRC** on acceptance of the **Goods** from the **Supplier** (subject to quality issues).
- b. Title to intellectual property in regard to **Services** carried out for **MRC** vests in **MRC** upon its creation.

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- c. The **Supplier** assumes all risk in the **Goods** and/or **Services** until it is accepted by **MRC**.

8. ACCEPTANCE AND REJECTION

- a. **MRC** may, at any time before acceptance, reject the **Goods** and/or **Services** if **MRC** believes the **Goods** and/or **Services** are defective, do not comply with the warranties specified herein or do not meet the stated requirements at time of purchase. **MRC** may prior to rejection unpack, inspect, and/or test the **Goods** and/or **Services** (or the product of the **Services**) for this purpose.
- b. If **MRC** rejects the **Goods** and/or **Services** (or any part thereof) the **Supplier** must either collect the defective **Goods** and replace them or undertake and complete the **Services** again at the **Supplier's** expense; or refund **MRC** any amount paid for the defective **Goods** and/or **Services** plus any reasonable "make good" amount.

9. INVOICE

- a. If the **Supplier** is (or is required to be) registered for GST, the **Supplier** must issue a tax invoice for the supplies after the **Goods** have been delivered or the **Services** performed. The **Supplier's** tax invoices are to show all the details required by A New Tax System (Goods and Services Tax) Act 1999.
- b. If the **Supplier** is not registered for GST (and is not required to be registered for GST), the **Supplier** must issue an invoice for the supplies after the **Goods** have been delivered or the **Services** performed.
- c. All invoices must quote the MC PO number. Invoices submitted without a PO number will be returned for re-issuance with a PO number.
- d. All invoices must be:
 - i. emailed to ap@murrayriver.nsw.gov.au (preferred), or
 - ii. posted to PO Box 906, Moama, NSW 2731.
- e. Invoices delivered in any other way or to any other email or postal address will not be processed for payment.
- f. Non-compliance with any of the above terms will result in delays to payment and no demand may be made or compensation claimed by the **Supplier**.

10. PAYMENT

- a. **MRC** will pay the **Supplier** within thirty (30) days of receiving a valid invoice as described above.
- b. No interest or penalties will be payable by **MRC** in respect of any invoices rendered by the **Supplier** which is due and remains unpaid.
- c. Payment will only be made by **MRC** to the **Supplier**. Payment will only be made by way of a

bank transfer; payments will not be made in cash or through the issuance of a cheque.

- d. It is the responsibility of the **Supplier** to provide **MRC** with bank account details (bank & branch (BSB) code, account number, account name etc.) to enable **MRC** to make such transfer.

11. INDEMNITY AND INSURANCE

- a. The **Supplier** will effect and maintain appropriate insurance policies, including public liability insurance for an amount of at least \$10,000,000 per event. Where **Services** are being performed, the **Supplier** will also maintain a professional indemnity insurance for at least \$5,000,000.
- b. The **Supplier** shall provide a certificate of currency for such insurances within five (5) working days of such a request by **MRC**.
- c. The **Supplier** indemnifies **MRC**, its Councillors and its staff against actions, losses, damages, penalties or demands consequent upon or in connection with the performance or purported performance of the **Supplier** of its obligations under this **PO**, including without limitation, any acts or omissions of the **Supplier's** employees or its agents.

12. GENERAL

- a. The **Supplier** must not assign the benefit of the procurement activity without **MRC's** prior written consent.
- b. **MRC'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 by the **Supplier**.
- c. The invalidity or unenforceability of any term or condition shall not affect the validity or enforceability of any other term or condition, which shall remain in full force and effect.
- d. These conditions will be governed by the law of New South Wales and the parties submit to the non-exclusive jurisdiction in that State.

13. DEFINITIONS

"**Goods**" means any goods to which the **PO** applies,
"**MRC**" means Murray River Council, ABN 30 308 161 484

"**Parties**" means **MRC** and the **Supplier**,
"**PO**" or "**Purchase Order**" means the document detailing the **Goods** and/or **Services** to be supplied and other terms of supply, to which these terms and conditions relate,

"**Services**" means any services (sometimes referred to as Works) to which the **PO** applies,

"**Supplier**" means the party to which the **PO** is addressed, its agents and its employees.