

Purchase Order General Terms & Conditions for the Supply of Goods & Services

The following terms and conditions apply to any supply of Goods and/or Services to Snowy Monaro Regional Council. Any alterations to these terms and conditions must be in writing and signed by both parties. These terms and conditions will override any Contractor's terms and conditions associated with the supply of Goods or Services where there is inconsistency, unless otherwise notified in writing.

1 Definitions

Contract - the Purchase order, these General Conditions and any Special Conditions.

Contractor – the party identified as such on the Purchase Order.

Goods – the goods, if any, described on the Purchase Order.

GST – the meaning given to that term under *A New Tax System (Goods and Services Tax) Act 1999*.

Laws – the requirements of all statues, rules, regulations, proclamations, awards, ordinances, by-laws or Australian Standards, present or future, and whether state, federal, local or otherwise.

Purchase Order – the purchase order for Goods and/or Services issued by Snowy Monaro Regional Council to contractor from time to time containing details of the Goods and/or Services.

Services – the services, if any, described on the Purchase Order.

2 Quotes

All quotes provided by the Contractor are on an obligation free basis.

Quotes provided by the Contractor must:

- Clearly define the scope of any works,
- Clearly define the total Contract price,
- Include unit rates for the purpose of approved variation in accordance with the Contract,

No agreement is in force until a Purchase Order is issued to the Contractor by way of acceptance of quoted prices.

The Purchase Order number must be quoted on all correspondence to Snowy Monaro Regional Council relating to the provision of Goods and Services

3 Price Basis

The price stated on the Purchase Order is firm and binding (subject to any Special Conditions). If the contractor does not agree to anything contained in the Purchase Order it must notify Snowy Monaro Regional Council in writing upon receipt. Prices shall include customs duty (unless specifically exempt), packaging, marking, handling, freight and delivery, insurance, GST (where the contractor is registered for GST) and any other applicable costs and charges.

The contractor shall issue Snowy Monaro Regional Council a valid tax invoice in accordance with *a New Tax System (Good and Services Tax) Act 1999* (the GST Act).

The Contractor is entitled to recover from Snowy Monaro Regional Council the amount of any GST payable on taxable supplies, within the meaning of the GST Act, provided under the Contract.

4 Payment

Snowy Monaro Regional Council's standard terms of payment are 30 days from acceptance of the Goods and Services and receipt of a correctly executed tax invoice. This may be varied where Snowy Monaro Regional Council accepts a discount by the Contractor for earlier payment.

The tax invoice must contain the Purchase Order number. The tax invoice must also contain the Contractor's Australian Business Number (ABN) and the name of the Contractor as recorded in the Australian Business Register for that ABN. If the ABN is not quoted Snowy Monaro Regional Council is required to withhold an amount from the payment and forward this to the Australian Tax Office.

5 Performance of the Contract

The Contractor shall deliver the Goods and provide the Services at the time and place specified in the Purchase Order. The Contractor shall ensure that the Goods and Services comply with all of the General Conditions and Special Conditions of the Contract.

Goods

All Goods must be delivered to Snowy Monaro Regional Council at the address indicated on the Purchase Order or agreed to at any time.

All Goods must be delivered by the agreed date and in the quantity as set out in the Contract. All Goods shall be in the condition stated on the Purchase Order and comply with the highest relevant commercially accepted standards and be fit for purpose unless varied by a Special Condition. Goods must be accompanied by a delivery docket specifying the Purchase Order number.

Hazardous and/or dangerous materials must be clearly marked as such and supplied with a Material Safety Data Sheet.

All goods supplied must include safety instructions, training and/or operations manual (or similar) or training must be provided to council staff in the operation and use of the goods.

Snowy Monaro Regional Council may reject Goods that are faulty or do not fully comply with this Contract, and retains the right to do so after acceptance, if the Goods are found to be faulty or not in accordance with the Contract after acceptance. The Contractor shall make good or replace these Goods at no additional cost, including removal and incidental costs, within the time specified by Snowy Monaro Regional Council.

6 Services

The Contractor warrants that it will render the Services with due skill and care, and that any materials supplied in connection with the Services will be fit for purpose. The Contractor must provide at his/her own cost and expense all labour, materials, tools, implements, plans and

everything necessary for the complete and proper performance of the Services.

The services will be completed by the Contractor by the date of practical completion recorded in any agreement between the parties, or otherwise by the date set out in the Purchase Order, or by such extended date as shall be determined by agreement in writing, and the Contractor shall give Snowy Monaro Regional Council notice in writing of the date upon which the Services are completed.

If there is a defect in performance of the Services or they are incomplete, Snowy Monaro Regional Council may, by notice, require the Contractor to remedy the defect in performance, complete the Services, or re-do the Services at no additional cost to Snowy Monaro Regional Council. Such notice must specify the time period to remedy the defect.

The parties may during the course of supplying Services agree to variations to the Services. Any agreement to a variation must be in writing and signed by both parties.

The contractor shall (if requested to do so) within three business days of the date of the Purchase order, supply Snowy Monaro Regional Council with a Safe Work Method Statement.

The Contractor agrees to abide by Snowy Monaro Regional Council's Work Health and Safety Policy and all other safety and environmental legislation.

7 Subcontracting

The Contractor must obtain the prior written approval of Snowy Monaro Regional Council to assign or subcontract part or all of the supply of Good or Services.

Snowy Monaro Regional Council's approval may be conditional upon the contractor and sub-contractor entering into a written agreement which obliges the sub-contractor to comply with any of the contractor's obligations pursuant to this Agreement as nominated by Snowy Monaro Regional Council.

If the Contractor subcontracts or assigns all or any part of the supply of good or service, the Contractor is not relieved of any liability or obligation of the Contractor under these terms and conditions.

8 Termination

Snowy Monaro Regional Council may terminate the contract in whole or in part when the Contractor;

- Has not remedied a breach notified to the Contractor within the time specified in the notice of breach,
- Becomes bankrupt or insolvent,
- Is unable to complete its obligations under the Contract,
- Assigns or enter into a subcontract in respect of this Contract without the prior approval of Snowy Monaro Regional Council,
- Breaches a term of this Contract which specifically states that a breach gives Snowy Monaro Regional Council the right to terminate.

9 Warranties

In addition to any warranties implied by law, the Contractor warrants that the Goods and/or Services are;

- Free from defects in material or workmanship and of merchantable quality,
- Of the description and quality specified in the Purchase Order,
- Fit for purpose,
- Complying with all applicable Australian standards and legislation,
- Not infringing on any patent, registered design, trademark or name, copyright or any other protected right.

The warranty commences on the day of delivery or acceptance of the Goods and/or Services, whichever occurs last. It shall be valid for 90 days, or the length of the Contractor's or Manufacturer's standard warranty period, whichever is longer.

10 Cancellation

If the contractor is unable to supply the Goods or Services as specified and set out in the Purchase Order, it must promptly notify Snowy Monaro Regional Council in writing. Subject to Snowy Monaro Regional Council's approval of the price, type and quality before delivery, the Contractor may offer other Goods or Services in substitution.

11 Title and acceptance

The title to the Goods (including any intellectual property) vests in Snowy Monaro Regional Council when Snowy Monaro Regional Council accepts or is deemed to have accepted them. The risk of any loss or damage to the Goods remains with the Contractor until acceptance by Snowy Monaro Regional Council.

Snowy Monaro Regional Council will be deemed to have accepted Good or Services by notifying the Contractor that they are accepted, or if 14 days have passed since delivery or advise of completion without Snowy Monaro Regional Council rejecting the goods or requesting a remedy to the Services.

12 Notices

All notices, requests, variations, and other communications by both parties are to be in writing and delivered promptly by hand delivery or pre-paid post, or email, to the appropriate addresses named in the Purchase Order, and must reference the Purchase Order.

13 Existing Contracts & Standing Offers.

Where this Contract is issued under the terms of a standing offer or to extend the terms of an existing contract, the terms of that standing offer or existing contract shall prevail over the General Conditions of this Contract.

14 Application of Law

The Contract shall be governed by NSW Law and the parties agree to submit any disputes which may arise out of the Contract to alternative dispute resolution before either party commences any proceeding in a Court or the

NSW Civil and Administrative Tribunal in relation to the dispute.

15 Patents, trademarks, Copyrights and Registered Designs

The Contractor warrants that neither the supply of the Goods and Services by the Contractor or their provision or use by Snowy Monaro Regional Council will infringe any Intellectual Property right of any person.

16 Insurance

The Contractor must take out and maintain;

- A Workers Compensation insurance policy in respect of its employees,
- Such other insurances notified to the Contractor by Snowy Monaro Regional Council as an interested party,
- The Contractor must provide a current copy of all required insurance policies prior to taking any action under the Purchase Order and Contract.

Failure to submit this documentation when requested may result in termination of the contract.

17 Risk Management, Work Health & Safety

The Contractor must comply with all relevant obligations under the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and *Protection of the Environment Operation Act 1997* and must comply with all other Laws.

18 Government Information (Public Access) Act

- a) The Contractor must, within 7 days of receiving a written request by Snowy Monaro Regional Council, provide Snowy Monaro Regional Council with immediate access to the following information contained in records held by the Contractor:

- i) Information that relates directly to the performance of the services provided to Snowy Monaro Regional Council, by the Contractor pursuant to the Contract;
 - ii) Information collected by the Contractor from members of the public to whom it provides, or offers to provide, the services pursuant to the Contract; and
 - iii) Information received by the Contractor from Snowy Monaro Regional Council, to enable it to provide the services pursuant to the Contract.
- b) For the purpose of sub-clause (a), information does not include;
- i) Information that discloses or would tend to disclose the Contractor's financing arrangements, financial modelling, cost structure or profit margin,
 - ii) Information that the Contractor is prohibited from disclosing to Snowy Monaro Regional Council by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth, or
 - iii) Information that, if disclosed to Snowy Monaro Regional Council, could reasonably be expected to place the Contractor at a substantial commercial disadvantage in relation to Snowy Monaro Regional Council at present or in the future.
- c) The Contractor will provide copies of any of the information in sub-clause (a), as requested by Snowy Monaro Regional Council, at the Contractor's own expense.
- d) Any failure by the Contractor to comply with any request pursuant to sub-clause (a) or (c) will be considered a breach of an essential term and will allow Snowy Monaro Regional Council to terminate the Contract by providing notice in writing of its intention to do so.

19 Heavy Vehicle National Law (NHVL) Chain of Responsibility (CoR)

The Contractor accepts that undertaking specified functions that exercise, or have the capability of exercising control or influence over any transport task, the Contractor is part of a Chain of Responsibility (CoR) and may be obliged

to comply with the Heavy Vehicle National Law (HVNL).

The Contractor accepts that a breach of the HVNL or Heavy Vehicle National Regulator (HVNR) CoR may be a breach of the contract between Snowy Monaro Regional Council (Council) and the Contractor. Council reserves its rights under the Contract (including termination) in the event of such a breach.