

TERMS AND CONDITIONS OF PURCHASE



1. General

Unless otherwise stated on the front of this purchase order, the following terms and conditions will apply. Where there is any variation between these terms and conditions and the terms and conditions contained in any letter, quotation, tender other communication or document of the Seller, the former shall prevail except in cases where the purchase is the subject of a specific contract between the Buyer and Seller in which case, the terms of such specific contract shall prevail. "Supplies" means all goods, materials, plant, machinery, works, services, labour, installation or technical advice provided against this purchase order. "Buyer" means Western Sydney Parklands Trust. "Seller" means the person, company, firm, organization or Corporation named on the front of this order from which the "Supplies" have been ordered.

2. GST Provisions

Any invoice for payment under this Agreement must be a Tax Invoice as defined in A New Tax System (Goods and Services Tax) Act 1999. The Buyer is not obliged to make any payment under this Agreement unless the Seller has provided a Tax Invoice in respect of that payment.

3. Withholding Tax and Terms of Payment

If the Supplies are outside the GST legislation, an ABN must be quoted on the Seller's invoice. If the Seller has no ABN, the Tax Office's "Statement by a Supplier" must be provided. Withholding tax at the rate of 48.5% will be deducted from the payment if the required information is not provided. Payment by the Buyer shall be made within 30 days of the date of the invoice. No invoice shall be submitted until the Supplies have been fully delivered.

4. Non-Acceptance of Additional Charges.

All prices stated on the front of this purchase order are to include delivery and any other charges for the Supplies to the nominated delivery point. No other additional charges will be payable by the Buyer.

5. Delivery and Purchase in Default

All deliveries shall be free into store at the point nominated on the order. The time of delivery stated on this order shall be of the essence of the contract and Supplies will be delivered as and when specified. If at any time the Seller becomes aware that the agreed delivery time shall not be met, then a written explanation of the reasons for the delay together with a request for an extension of time shall be immediately sent to the Buyer. Should the Buyer be reasonably satisfied that the Seller could have avoided the delay, then the Buyer reserves the right to cancel the order with the Seller. Where the Buyer so cancels, then the Seller shall not be entitled to reimbursement for any cash associated with this order that have been incurred prior to cancellation.

6. Intellectual Property and Patent Rights

The Seller warrants that it has not violated any patent, trade mark or copyright in producing or supplying the Supplies and agrees to defend any claim relating to any alleged violation and to indemnify the Buyer against any liability, loss or damage occasioned by any such claim or violation arising out of the use or possession of the Supplies or part thereof.

7. Indemnity and Insurance

The Seller shall indemnify the Buyer, its officers, agents and contractors against all liability for death of or injury to persons or loss of or damage to property (including property of the Buyer) and all actions, claims, demands, losses damages, costs and expenses whatsoever arising from any Supplies provided by the Seller under this contract (including where appropriate, the erection, installation, repair or operation of any plant or equipment) exception the extent to which such liability is caused by the negligence of the Buyer.

The Seller must hold and maintain:

Public Liability and Products Liability insurance for at least \$20,000,000 or such other amount, and in such specific terms as may be specified or agreed to by the Buyer, Workers Compensation and such other policies as may be specifically requested and in such specific terms as may be specified by the Buyer, and shall produce evidence of the currency of such insurance policies and the level of any excesses deductible when requested by the Buyer.

8. Statutory: Health, Safety and Environmental Requirements

The Seller must:

Comply with all legislative and statutory requirements including the NSW Work Health and Safety (WHS) Act 2011, and the Protection of the Environment Operations Act 1997, in the delivery or performance of the Supplies and in particular:

- ensure that its employees, contractors and agents providing the Supplies at all times identify and exercise all necessary precautions for the health and safety of all persons,

- prior to commencing any work on the buyers premises, perform an appropriate health, safety and environment risk assessment and implement any necessary preventative controls,
- be responsible to obtain and comply with the Buyer's WHS requirements when the Supplies includes works and services on the Buyers property,
- report immediately to the Buyer, all incidents on the Buyer's property involving injury to any person, harm to the environment or damage to property, that occur while supplying or performing the Supplies. Written notification of any such incident must be provided to the Buyer within 24 hours,
- report immediately to the buyer, all incidents on the buyer's property Supplies are competent in safety and environment work procedures. The Supplier must provide such employees, contractors and agents with information and training about processes and materials which are relevant to the Supplies,
- on the first occasion a hazardous substance is supplied and at other times when requested by the Buyer, provide relevant Materials Safety Data Sheets (MSDS)- clause 155 of the WHS Act 2011,
- when required by the Buyer, provide copies of current certificates,
- training records, licenses and authorisations relating to the Supplies,

9. Return of Oversupplies

The Buyer shall return all oversupplies against this order at Seller's expense.

10. Inspection, Testing and Acceptance

Acceptance shall not be deemed to have occurred until the Buyer has been given a reasonable opportunity to inspect, test and accept the delivered Supplies.

11. Risk, Title and Ownership of Supplies

Title and/or ownership of Supplies shall not vest with the Buyer until payment has been made to the Seller. The risk for any Supplies shall remain with the Seller until delivery has been made to the Buyer in accordance with the terms and conditions of this order.

12. Supplies to be in Accordance with Contract Standards

The Supplies shall be of the qualities and standards specified in the order, and shall conform in all respects to any sealed patterns, specifications, plans, drawings, samples and other particulars specified on the order. All Supplies provided against this contract, where relevant, shall comply with applicable Australian Standards.

13. Guarantees/Warranties

The Seller shall guarantee that all Supplies provided against this contract conform to the standards specified on the purchase order, are of merchantable quality and are fit for the intended purpose for which they were sold. The Seller shall further guarantee all Supplies provided against this purchase order all defects arising from faulty materials, workmanship or design for a period of twelve (12) months from the date of acceptance, after delivery by the Seller and, any defective Supplies shall be immediately repaired or replaced at Sellers costs, which cost shall also include any transport, packaging and any other associated charges. The total price stated on the order shall be inclusive of GST.

14. Assignment

The Supplier must not assign this Purchase Order or any part of it without the prior written consent of the Buyer.

15. Firm Price

All prices stated on the purchase order are inclusive of GST and are not subject to variation for any reason other than for the addition of GST.

16. Termination

In the event of a breach by the Seller of any of the terms and conditions of this contract, the Buyer may of its option and without prejudice to any of its rights or remedies, cancel all or any undelivered Supplies upon reasonable notice in writing to the Seller.

17. Force Majeure

No failure or omission to carry out or observe any of the stipulations or conditions of this contract shall, except as herein expressly provided to the contrary, give rise to any claims against either party or be deemed to be a breach of the contract, if such failure or omission arises from any cause reasonably beyond the control of either party.

18. Accounts for Payment

All statements and accounts for payment are to be submitted to: Accounts Payable, Western Sydney Parklands Trust
PO Box 3064, Parramatta NSW 2124