City of Swan Purchase Order
Terms and Conditions 2016

city of swan

1. QUOTATION AND CONTRACT
By submitting a quotation, the Contractor is making an offer ("Offer"). The City may in its absolute discretion decide to not accept any quotation. A contract does not form until the City issues a purchase order. If the City issues a purchase order then a contract forms on the basis of these terms.

2. DELIVERY AND PERFORMANCE
Where the Description is for just the delivery of goods, the Contractor must properly, safely and securely deliver the Description in accordance with the Delivery Instructions between of 9:00am and 3:30pm on a business day by the Deliver Req'd Date. Where the Description is for other than just the delivery of goods, the Contractor must properly, safely and securely deliver and perform the Description in accordance with the Delivery Instructions, including carrying out any works, by the Deliver Req'd Date.

3. REQUIREMENTS

The Contractor warrants that:
a. by performing this Agreement, the Contractor agrees to these Terms forming the Contract, even if the Contractor has given, gives, or attempts to give, to the City alternative terms purporting to bind the City;
b. there are no unregistered security interests or registrations under the Personal Property Securities Act 2009 over any goods or materials to be supplied by the Contractor;
c. the Description and any works are fit for purpose, of merchantable quality, do not pose any danger and do not contain any hazardous material;
d. all manufacturer's warranties apply in their entirety and nothing has been done that is, or could be, a breach of that warranty; and
e. the City's use of the Description or any works will not breach any intellectual property rights.

The Contractor must:
f. hold, and keep current, with a reputable insurer, any insurance that the City in its reasonable discretion considers would be prudent for a contractor providing the Description to hold;
g. register itself with the City as an approved supplier of the City and provide the City with satisfactory written evidence that it holds, and has kept current, all required insurance;
h. remain solvent and able to pay its debts as and when they fall due;
i. comply with all applicable laws;
j. adopt safe systems of work and keep a safe workplace in accordance with applicable laws;
k. carry out all works and deliver the Description in a workmanlike manner, with either due or professional skill and care, whichever is the higher applicable standard, and in accordance with any applicable Australian Standard;
l. before Certification, transfer, or otherwise grant, all intellectual property rights held by the Contractor in the Description to the City;
m. mark any goods as the property of the City; and
n. where the Description or any works include any goods manufactured by others, before Certification grant the City the benefit of all manufacturer's warranties and deliver all operating manuals.

4. RISK
Risk passes to the City after the City has given the Contractor a written certification that the Description and any works have been completed ("Certification").

5. PAYMENT
The City must pay the Contractor the Total within 30 days of receiving from the Contractor after Certification a valid invoice quoting the relevant purchase order number. The Total is all inclusive. The Total includes, but is not limited to including, costs of delivery, installation, approval and certification. The Total also includes any applicable Goods and Services Tax levied under the A New Tax System (Goods and Services Tax) Act 1999.

6. BREACH, TERMINATION AND DISPUTES
Where a party is in breach of the Agreement, any other party may give the party in breach a written notice requiring the party in breach to remedy the breach as specified in the notice. If the party in breach fails to remedy the breach in accordance with the notice, the party issuing the notice may terminate the agreement.
Where a dispute arises out of this Agreement, the parties shall meet within 7 days of a party issuing a written notice of dispute. The parties must use their best endeavours to resolve the dispute. If the dispute is not resolved within 28 days after the meeting, either party may refer the matter to arbitration under the Commercial Arbitration Act 1985.

7. OTHER TERMS
These terms, the purchase order form and any quotation submitted by the Contractor that is consistent with these terms constitute the entire contract between the City and the Contractor ("Agreement"). Neither party may assign this Agreement. The terms of this Agreement cannot be varied without the consent of all parties in writing. No delay or indulgence by any party, in enforcing any provision of this Agreement restricts the rights of any party or operates as a waiver of that, or any subsequent, breach. This Agreement is governed by the laws of Western Australia and all parties submit to the jurisdiction of Western Australia to resolve any dispute. All terms with capital letters have their meaning given by reference to either the relevant item on the purchase order form or as defined above.