

Lithgow City Council Purchase Order - Standard Terms and Conditions

1. General

These conditions apply to any Purchase Order for goods and/or services ("Goods/Services") placed by Lithgow City Council (LCC) and must be read in conjunction with any contract specified in an individual Purchase Order. If there is any inconsistency between these conditions and of the contract, the contract terms and conditions will prevail.

2. Quality and Delivery

The Supplier must, as specified in the Purchase Order:

- (a) Provide Goods/Services safely and appropriately to protect it from damage; and
- (b) deliver the Goods/Services:
 - (i) by the date;
 - (ii) to the place; and
 - (iii) in the quantity

3. Ownership and Risk

Title to the Goods vests in LCC on acceptance by LCC. The risk of any loss or damage to the Goods remains with the Contractor until delivery to or acceptance by LCC, whichever is the latter.

4. Warranties

- (a) In addition to any warranties implied by law, the Supplier warrants that:
 - (i) the Goods/Services are free from defects in material and workmanship and are of merchantable quantity;
 - (ii) it has a right to provide the Goods/Services;
 - (iii) the Goods/Services are free from any charge or encumbrance in favour of any third party not declared or known to LCC before or at the time the Purchase Order is made;
 - (iv) the Goods are of the description and quality specified in the Purchase Order;
 - (v) the Goods are fit for purpose;
 - (vi) the Goods/Services comply with all applicable Australian standards and legislation; and
 - (vii) the Goods do not infringe any patent, registered design, trademark or name, copyright or any other protected right
- (b) The Supplier will ensure that any warranty offered by a manufacturer of the Goods/Services is enforceable by LCC.
- (c) For the avoidance of doubt LCC may treat any breach of the warranties in this clause 4 by the Supplier as a repudiation of the Purchase Order giving rise to the remedies specified in clause 5.

By agreeing to provide goods and/or services in accordance with this Purchase Order the Supplier warrants that or complies with the *Fair Trading Act 1987 (NSW)* and the *Competition and Consumer Act 2010 (Cth)*.

5. Acceptance and Rejection

- (a) LCC may, at any time before acceptance, reject the Goods/Services if LCC believes the Goods/Services is defective, do not comply with the warranties specified in clause 4 above or do not meet the Purchase Order. LCC prior to rejection may unpack, inspect and test the Goods/Services for this purpose.
- (b) LCC may, at any time after acceptance, reject the Goods/Services if LCC believes the Goods/Services is defective, do not comply with the warranties specified in clause 4 above or does not meet the Purchase Order, provided that the defect could not have been discovered prior to acceptance.
- (c) If LCC rejects the Goods/Services (or any part of the Goods/Services) the Supplier must comply with a requirement of LCC to:
 - (i) collect the defective Goods/Services and replace it at the Supplier's expense; or
 - (ii) refund LCC any amount paid for the defective Goods/Services.
- (d) The parties expressly agree that the rights of LCC pursuant to paragraph (c) above apply notwithstanding that the matters in clause 4 are described as warranties.

6. Cancellation

- (a) If the Supplier is unable to supply the Goods/Services as specified, it must promptly notify "Lithgow City Council", and if the Goods/Services are completely unavailable, the Supplier may offer another Good/Service as a substitution. "Lithgow City Council" may accept or reject the substitute Goods/Services in its absolute discretion.
- (b) The substitution of the Goods/Services must be approved by both parties in writing.
- (c) Unless informed at the quotation stage that orders for goods are non-cancellable, LCC may (at any time before delivery), cancel or change the purchase order.

7. Payment of Accounts

LCC standard terms of payment are 30 days from acceptance of Goods and Services and receipt of a correctly rendered invoice.

8. Price, Invoicing and GST

- (a) The Supplier must have an Australian Business Number (ABN) or proper exemption as classified by the Australian Taxation Office. The Supplier's tax invoice(s) are to show all the details required by *A New Tax System (Goods and Services Tax) Act 1999*.
- (b) A tax invoice must identify the Purchase Order Number. Each tax invoice must also include ABN and the name of the Supplier that is recorded in the Australian Business Register for that ABN. Otherwise, PAYG Withholding (No ABN) law requires LCC to withhold an amount from the payment and send it to the Australian Taxation Office.
- (c) A tax invoice must meet the requirements of a tax invoice as indicated by the Australian Taxation Office.

9. Indemnity

The Supplier indemnifies LCC against any and all claims by a third party and any loss, personal injury, death or damage arising out of or in connection with an act or omission of the Supplier in supplying the Goods/Services or any and all obligations or warranties under these conditions.

10. General

- (a) The Supplier must not assign the benefit of the Purchase Order without LCC prior written approval.
- (b) No variation of the Purchase Order will be binding on LCC unless in writing and signed by a duly authorised representative of LCC.
- (c) LCC'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.
- (d) These conditions will be governed by the law of New South Wales and the parties submit to the jurisdiction in that State.

11. Insurance

The Supplier must maintain the following policies of insurances (and provide copies on request):

- (a) Public Liability: Amount per occurrence shall not be less \$20,000,000 (AUD)
- (b) Product Liability (where applicable): Amount per occurrence shall not be less \$10,000,000 (AUD)
- (c) Professional Indemnity (where applicable)
- (d) Motor vehicle insurance for any vehicles used to provide the goods/services.
- (e) Workers Compensation;

12. WH&S Act and Regulations

All suppliers and contractors must comply with current WHS legislation.

13. Business Ethics Policy

All suppliers must comply with Council's Business Ethics Policy, available for download via Council's website.

14. Gifts and Benefits

As stated in Council's Business Ethics Policy, suppliers are not to offer gifts and/or benefits to Council staff.

15. Hazardous Materials

Hazardous materials are to be clearly identified. If insufficient warning is shown, goods may be rejected. All hazardous materials are to be supplied with a Safety Data Sheet.