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## **GENERAL CONDITIONS OF CONTRACT**

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# **1 General Conditions of Contract**

## **1.1 Period of Contract**

The Contract shall be in force from the date of execution of the Contract documentation.

The Contract is to be completed on supply of the Requirements.

However, in the event of the Contractor failing in any manner to carry out the Contract to the Principal's satisfaction, the Principal may forthwith terminate the Contract by written notice to the Contractor.

Should significant additional time be required on site to conform to unforeseen delays beyond the Principal's control such as and not limited to adverse weather conditions, transport difficulties, airport/plane delays/re-scheduling the Principal will not be held accountable for any additional cost incurred by the successful Contractor unless prior written approval is given by the Chief Executive Officer, Executive Manager Engineering Services, or Manager Projects in writing.

## **1.2 Insurances**

Without limiting its obligations and responsibilities, the contractor shall take out insurance for the entire contract period under the following headings:

- (a) **Public Liability:**  
A Public Liability policy with an Insurer approved by the Australian Prudential Regulation Authority (APRA) as per their list of Insurers Authorised to Conduct New or Renew Insurance Business in Australia.

The policy of Public Liability Insurance taken out by the Contractor is to provide a minimum limit of liability of AUD\$50,000,000 in respect of Death, Property Damage and Bodily Injury.

- (b) **Workers Compensation:**  
The Contractor shall effect and keep in effect during the currency of the Contract such Insurance as may be necessary to adequately protect the Contractor and the Principal in respect of liability for payment of compensation to any Employee of the Contractor or of a Subcontractor of the Contractor under the Workers' Compensation and Injury Act 1981 or at Common Law.

- (c) **Professional Indemnity:**  
Where the Contract involves the provision of professional services and/or advice, the Contractor is to take out a Professional Indemnity Insurance policy with an Insurer approved by the Australian Prudential Regulation Authority (APRA) as per their list of Insurers Authorised to Conduct New or Renew Insurance Business in Australia.

The policy of Professional Indemnity Insurance taken out by the Contractor will have a limit of Liability based upon a figure agreed by the Principal and Contractor as per the attached Schedule; however, the limit of Liability will not be less than AUD\$10,000,000.

- (d) **Contractor's Work Insurance:**  
The Contractor shall effect and keep in effect during the duration of the Contract such insurance that may be necessary to adequately protect the Contractor and the Principal in respect to the value of work; the Price.

Before commencing work under the Contract, the Contractor shall provide evidence, in the form of certificates of currency, to the satisfaction and approval in writing of the Principal of the insurances having been taken out for the purposes set out in the General Conditions of Contract.

### **1.3 Record Keeping**

The Principal is subject to the provisions of the State Records Act 2000 (WA) ("SRA"). To the extent that the Contractor has possession, custody or control of any records created in the performance of functions undertaken for or on behalf of the Principal by or under this Contract, the following provisions will apply to such Records:

- (a) The term "records" has the same meaning as in the SRA.
- (b) The Contractor will comply with the SRA and its Principles and Standards and any principles or standards developed by the Principal in accordance with the SRA in relation to such Records.
- (c) All such Records will remain the property of the Principal.
- (d) The Contractor should note that as a public sector agency the Principal is subject to Freedom of Information, and that any records provided to the Principal under Section 3.4 may be subject to release under a Freedom of Information application, unless excepted as commercial in confidence.
- (e) The disposal of any such Records will be in accordance with the Principal's recordkeeping plan ("RKP").
- (f) The Contractor will give the Principal unlimited access, on reasonable notice, to all such Records.
- (g) On expiry or earlier termination of this Contract, the Contractor will (at the Principal's option) either return all such Records to the Principal in accordance with Principal's directions, or destroy them in accordance with Principal's RKP and the General Disposal Authority for Local Governments WA. In either case, the return or destruction of such Records will be at Principal's expense.

### **1.4 Normal Hours of Work**

For works being undertaken at the Principal's sites, the normal hours of works shall be defined as:-

- Works conducted between 7:00 am and 7:00 pm, Monday to Saturday;
- The Works to be undertaken by the Contractor shall be undertaken during normal hours unless notified by the Principal in writing.

The Contractor shall be liable for any additional costs the Principal may incur as a result of work outside the normal hours. In particular, the Contractor may be liable for all expenses in connection with additional attendance by the Principal's Representative, consultant contractors.

### **1.5 After Hours Work**

For works being undertaken at the Principal's sites any after hours works conducted shall be at the sole discretion of the Principal.

After hours works shall be defined as:

- Public holidays;
- Sunday;
- Hours between 7:00 pm – 7:00 am Monday to Saturday.

## **1.6 Emergency Repairs/Maintenance**

Emergency repairs/maintenance requested by the Principal shall be performed as soon as practical and, within the timeframes directed by the Principal, the Contractor shall visit the site and determine the cause of any breakdown in services.

The Contractor shall immediately take the minimum action necessary to leave the services in a safe condition. The cost of such action shall be charged at scheduled rates.

When the cause of the fault is of a major nature, the Contractor shall provide a written report with recommendations and cost estimates for the repairs.

## **1.7 Requests for Services**

No Works shall be undertaken by the Contractor without a valid authorised purchase order from the Principal, except in the case of an emergency which the Principal shall determine in its sole discretion.

The Contractor shall conduct the Works within the date and time detailed in the Principal's valid purchase order.

## **1.8 Notice of Service**

For works being undertaken at the Principal's sites the Principal is to arrange for the Contractor to have access to a site or premises in order for the Contractor to conduct the Works in accordance with this Request and the Principal's timelines detailed in its purchase order.

An extension of time shall be granted to the Contractor to complete the Works if the Principal fails to arrange for access by the Contractor to the site or premises.

The Contractor is required to give adequate notice on an intention to inspect or carry out any work, of a non-urgent nature, to any site.

## **1.9 Invoices and Payments**

Unless otherwise requested by the Principal, invoices should contain the following information as a minimum:

- Purchase Order Number
- Contract Number
- Name of the Principal's Representative/Project Manager
- Site or premises details;
- Works conducted;
- Breakdown of costs (labour and materials with Bill of Quantities);
- A service report detailing any other defects to be remedied and the action required to rectify such.

Tax invoices must be made out to:

Chief Executive Officer  
Shire of Merredin  
PO BOX 42  
MERREDIN WA 6415

And submitted via email to [sfo@merredin.wa.gov.au](mailto:sfo@merredin.wa.gov.au)

Unless otherwise stated in the Contract, and subject to the General Conditions of Contract, the Contractor shall be entitled to receive payment within 30 days of receipt of a Tax Invoice, there will be nil (0%) interest paid for late payments.

### **1.10 Uniforms**

For works being undertaken at the Principal's sites the Contractor's employees shall wear a work uniform that displays the Contractor's logo or other form of approved identification.

The uniform is to be neat and presentable at all times.

### **1.11 Licences and Registrations**

The Contractor and all staff must hold all current Western Australian appropriate licences.

The Contractor shall supply copies of any such Licences at the request of the Principal.

### **1.12 Control of Contractor's Employees**

The Contractor's employees and any subcontractors shall have a current Western Australian or National Police Clearance.

As far as practical, the Contractor shall use the same personnel for all work at the site.

The Contractor shall at all times maintain work practices, procedures and standards to ensure the safety of its employees and full compliance with all Commonwealth and State statutory requirements.

All persons shall use all appropriate personnel safety equipment required for each task.

For works/services taking place at one of the Principal's sites the Contractor shall engage only the minimum number of staff to work on site at any one time.

The Contractor and all personnel must be experienced and competent operators. The Principal has the right to reject any Contractor's personnel without cause.

### **1.13 Work Health and Safety**

The Contractor shall comply with the relevant Principal's policies and guidelines, all relevant Commonwealth and State laws and all requirements of the Work Health and Safety Act 2020 and Work Health and Safety Regulations 2022.

The Contractor shall not permit its employees, the employees of other parties or other persons to commence work on the Site until they have been inducted. Such induction shall include but not necessarily be limited to:

- familiarisation with the Safety Management Plan;
- reporting of accidents and incidents - which shall include the type of events to be reported, how an event is reported and to whom the event is reported;
- emergency procedures - which shall cover the procedure for a medical emergency and for evacuation of the Site in the event of a life threatening situation arising;
- personal protective equipment (PPE) - the standard requirements for the Site;
- lifting and manual handling skills;
- sun protection;
- avoidance of noise induced hearing loss;
- location of and access to First Aid on the Site;

- legislative framework - an employees rights and responsibilities under the Act and Regulations;
- procedure for the resolution of safety issues at the workplace (in accordance with Sections 24 to 28A of the Act), and;
- Site security.

Refer to the WorkSafe WA Code of Practice: First Aid, Workplace Amenities and PPE for practical guidance for the provision of first aid, workplace amenities and access to these amenities.

The Contractor shall induct its employees, the employees of other parties or other persons working on the Site with regard to JSA's/SWMS and shall prepare "Training Session Attendance" sheets signed by each attendee verifying that such induction has occurred.

Upon commencement of work on the Site, the Contractor shall further induct each employee, the employees of other parties or other persons working on the Site with regard to all significant hazards associated with their particular activity and area of employment on the Site and where relevant shall include the use of powered plant, tools and equipment.

### **1.14 Safe Work Method Statements**

Where construction work on the Site is high risk construction work, the Contractor shall ensure that a person having day-to-day, on site control of the high-risk work at the site gives the Contractor a written Safe Work Method Statement before the high risk construction work commences. The Contractor shall ensure that the Safe Work Method Statement is kept up to date.

For the purposes of this clause, high risk construction work includes:

- work involving a risk of a person falling 2 metres or more; or
- work on telecommunications towers; or
- the demolition of any existing structure; or
- disturbing or removing asbestos; or
- the alteration to a structure that requires the structure to be temporarily supported to prevent its collapse; or
- work within a confined space;
- the excavation to a depth of more than 1.5 metres; or
- the construction of tunnels; or
- the use of explosives; or
- work on or near pressurised gas pipes (including distribution mains); or
- work on or near chemical, fuel or refrigerant lines; or
- work on or near energised electrical installations and lines (whether overhead or underground); or
- work in an area that may have a contaminated or flammable atmosphere; or
- work involving tilt-up or precast concrete; or
- work on or adjacent to roads or railways that are in use; or
- work on a construction site where there is movement of powered mobile plant; or
- work in an area where there are artificial extremes of temperature; or
- work in, over or adjacent to water or other liquids if there is a risk of drowning; or
- work involving diving.

The Contractor shall ensure that a Safe Work Method Statement will cover all high-risk construction work done at the site, and that the high risk construction work is carried out in accordance with the statement. Where work is carried out other than in accordance with the

Safe Work Method Statement, the Contractor shall ensure that the work ceases (when it is safe to do so) and does not resume until the statement is complied with.

The Contractor shall ensure that the Safe Work Method Statement shall be kept up to date describe:

- each high-risk construction work activity that is or includes a hazard to which a person at the construction site is likely to be exposed;
- the risk of injury or harm to a person resulting from any such hazards;
- the safety measures to be implemented to reduce the risk, including the control measures to be applied to the activity or hazards; and
- a description of the equipment used in the work activity; and
- the qualifications and training (if any) required for persons doing the work to do it safely.

### **1.15 Safety Data Sheets**

The Contractor shall ensure that a copy of all manufacturer/supplier Safety Data Sheets are available on a register on site for each hazardous substance used in connection with the work under the Contract. Safety Data Sheets shall be consistent with the format of the National Code of Practice for the Preparation of Safety Data Sheets.

### **1.16 Shire of Merredin Access and Inclusion Plan (AIP)**

The Contractor shall comply with the Disability Services Act 1993 and the requirements of the Principal's Access and Inclusion Plan for all works/services being undertaken at the Principal's public sites.

If the Contractor has a query with respect to the Access and Inclusion Plan requirements, the Contractor must refer to the Principal's Representative and if the Principal's Representative is unable to respond at that time, the Principal will provide advice in writing.

### **1.17 Risk Management Standard Guidelines Requirements**

The Contractor shall comply with the AS ISO 31000:2018 Risk Management Standard Guidelines.

### **1.18 Guarantee**

All Works carried out by the Contractor shall be guaranteed for a minimum of 12 months from date of Practical Completion of the Works. All Works must be completed within a reasonable time, to the appropriate Australian Standards and to a high tradesman like standard of workmanship.

### **1.19 Quotations**

All quotations and estimates shall include allowances for labour, parts, contractor's mark up, removal of all rubbish and redundant parts from site, any scrap or trade in value of redundant parts, and overtime considered necessary and any GST applicable.

### **1.20 Minor New Works**

Upon request of the Principal the Contractor may be required to submit quotes for minor works up to the value of \$5,000 (ex GST).



### **1.21 Cleaning**

For works being undertaken at the Principal's sites the Contractor shall keep the site or premises of the Principal while conducting the Requirements of this Request in a manner that is safe and clean to a standard that is acceptable to the Principal.

Upon completion of any Works the Contractor shall remove any materials, equipment, or rubbish to the satisfaction of the Principal from any site or premises of the Principal.

### **1.22 Equipment Alteration/Modifications**

For works being undertaken at the Principal's sites where equipment is removed, modified or altered the Contractor shall upgrade all current records, legends.

The Contractor shall provide in writing to the Principal any alteration to the maintenance procedures required to meet the manufacturer's recommendations.

### **1.23 Site Facilities**

For works being undertaken at the Principal's sites, where required, the Contractor shall be responsible for the provision of all normal facilities for the proper performance of the work under the Contract, including but not limited to:-

- (a) access to the site;
- (b) storage areas;
- (c) water, light and power supplies;
- (d) sanitary conveniences;
- (e) statutory amenities for drinking water, messing and changing;
- (f) storage of tools; and
- (g) first aid and safety measures; and any additional facilities required.

For works and/or services taking place inside or at the Principal's sites the Contractor shall have access to the existing public amenities on site. No additional amenities (*including office space or storage areas*) will be provided, except on prior request by the Contractor if availability exists.

Occupation of any part of the works and site for the provision of workmen's amenities shall not be permitted without the prior written approval of the Principal. The Contractor shall be responsible for keeping these areas clean and tidy. Such facilities are not to be used for cleaning of brushes, tools and equipment. The Contractor shall be responsible for providing all amenities to the toilets including soap, toilet paper etc. Except as nominated by the Principal, the Contractor shall ensure no other existing toilet facilities are used for any purpose within the Site.

### **1.24 Materials**

All equipment, materials and accessories in the Contract shall be new, of commercial grade, and shall conform to the Specification and appropriate current Australian Standards specification.

### **1.25 Public Protection**

For works being undertaken at the Principal's sites the Contractor shall use all types and methods of protection (*such as temporary safety fencing, hoarding, potholing, service location and warning signage*) that are reasonably practicable and necessary to protect the public from hazards associated with the Work under the Contract. All temporary fencing and signage must comply with statutory requirements for worksite.

## 1.26 Nature and Quantity of Work

The Principal does not give any assurances as to the nature or quantity of work that could be allocated. Depending on the nature and the type of work services may be sourced from more than one Contractor. The Principal, if the need arises, reserves the right to seek services from providers other than those forming part of this Contract.

## 1.27 Existing Services

Where, within the vicinity of the Services or Works being performed, there are existing utility services or facilities, the Contractor shall protect and maintain the same throughout the performances of the Services; including, but not limited to:-

- Electricity
- Water
- Sewerage
- Recycled water pipeline - irrigation
- Ensuring Dial Before You Dig Processes are undertaken

The Contractor shall allow for all traffic controls measures to maintain the roads in a safe trafficable condition.

## 1.28 Materials, Labour, Constructional Plant and Risk

The Contractor shall provide all materials, labour, plant, equipment, tools and everything else necessary for the Works.

The Contractor shall take upon itself the whole risk of executing, completing and maintaining the Works in accordance with these Conditions, the drawings and specification (*if any*) and such orders as the Principal may issue.

The Contractor shall be solely liable for loss or damage to the Works from any cause whatsoever (*except loss or damage caused by any negligent act or omission of the Principal, the Principal or the employees, professional consultants or agents of the Principal*) until the Principal has certified that the whole of the Works have been satisfactorily completed by the Contractor.

## 1.29 Termination of Contract

- (a) If the Contractor fails to duly and punctually observe, perform and/or comply with any term, condition or stipulation (whether expressed or implied) and such failure continues for a period of 14 days (or such other period as, having regard to the circumstances, the Principal may reasonably allow) after service on the Contractor of a written notice requiring the Contractor to observe, perform and comply with such term, condition or stipulation or otherwise to remedy the breach; or
- (b) If the Contractor (being a corporation) goes into liquidation (except for the purpose of reconstruction or amalgamation) or is otherwise dissolved or if a receiver or receiver/manager of the whole or any part of the assets and undertaking of the Contractor is appointed or if the Contractor enters into any composition or scheme of arrangement with its creditors or if an inspector or like official is appointed to examine the affairs of the Contractor or the Contractor enters into voluntary administration; or
- (c) If the Contractor (being a natural person) commits an act of bankruptcy or if an order is made for the sequestration in bankruptcy of the estate of the Contractor, or if the Contractor assigns its estate or enters into a Deed of Arrangement for the benefit of its creditors; or

- (d) If the Contractor assigns or subcontracts the Contract or any part thereof without the prior written consent of the Principal; or
- (e) If the Contractor includes in its Tender any statement, representation, fact, matter, information or thing which is false untrue incorrect or inaccurate, whether known to the Contractor or not;

Then and in any of the said cases, the Principal may by notice in writing to the Contractor, forthwith terminate the Contract whether any Orders remain outstanding or not.

The Principal's abovementioned rights are in addition to and without prejudice of any other rights it may have at law, in equity or otherwise.

### **1.30 Waiver**

No forbearance, delay or indulgence by the Principal in enforcing the conditions of the Contract shall prejudice, restrict or limit the rights of that party, nor shall any waiver of those rights operate as a waiver of any subsequent breach.

### **1.31 Liquidated Damages**

If the Contractor fails to complete the works by the Date for Practical Completion together with any extensions of time granted by the Principal, the Contractor may be liable to the Principal for liquidated damages in the amount stated in the General Conditions of Contract for every day after that date until Practical Completion has been achieved or the Contract terminated, whichever is sooner.

- ***Liquidated Damages will not be enforced for this Contract.***

### **1.32 Contractor Security**

The Contractor may be required to provide to the Principal for the purposes of Contractor's Security within fourteen days of award of the Contract, security for an amount equal to 5% of the accepted tendered price (*Contract value*), in two equal parts of 2.5% of the accepted tender price (*Contract value*) in the form Bank Guarantees.

Alternatively, the Contractor may request in writing to the Principal within 14 days of the award of Contract that the Principal arrange for Retention Monies to the value of 5% of the accepted Tendered price (*Contract value*) in lieu of the Bank Guarantees be retained from the initial payment.

If the Contractor fails to provide Bank Guarantees or request the Contractor's Security be obtained through Retained Monies within 14 days of the award of the Contract, then the Principal will retain monies to the value of 5% of the accepted Tendered price (*Contract value*) in lieu of Bank Guarantees from the initial payment.

Upon issue of the Certificate of Practical Completion in accordance with the General Conditions of Contract, one Bank Guarantee (*or 50% of the retained monies*) will be returned to the Contractor within 21 days of the issue of the Practical Completion Certificate. The remaining Bank Guarantee (*or balance of retained monies*) will continue to be kept by the Principal until a successful inspection of the works at the expiration of the Defects Liability Period, and the subsequent issue of the Final Certificate. The final Bank Guarantee (*or balance of retained monies*) will be returned to the Contractor within twenty one days of the date that the Final Certificate is issued to the Contractor by the Principal.

Interest shall not be payable on retained monies.

- ***Contractor Security will not be required for this Contract.***

### **1.33 Formal Instrument of Agreement**

A Formal Instrument of Agreement may be prepared by the Principal for execution by the Contractor in accordance with the General Conditions of Contract.

### **1.34 Safety, Security and Smoke Free Workplaces**

The Contractor shall, when attending the Principal's premises or facilities, comply with all reasonable directions and procedures relating to occupational health (*including the Principal's smoke free work place policy*) and safety and security in effect for those premises or in regard to those sites, as notified by the Principal.

### **1.35 Contractor Performance Records**

- i) The Principal will maintain appropriate records monitoring Contractor performance and shall call upon a Contractor to explain any instances of unsatisfactory performance.
- ii) Unsatisfactory performance includes, but is not limited to, late delivery against an accepted project requirement or frequent rejection of project requirements.
- iii) In severe cases, unsatisfactory performance will lead to termination of the Contract in addition to any other remedies available to the Principal under the General Conditions of Contract for these requirements.

### **1.36 Rights and Remedies**

The Principal may exercise the rights herein conferred in addition to all or any other rights or remedies which the Principal shall or may be entitled to against the Contractor whether under a Legal Requirement or this Contract.

### **1.37 Limited Liability**

In the event of any breach of this contract by the Principal the remedies of the Contractor shall be limited to damages. Under no circumstances shall the liability of the Principal exceed the price of the requirements.

### **1.38 Media**

The Contractor shall not disclose any information concerning the Contract for distribution through any communications media without the Principal's prior written approval (which shall not be unreasonably withheld). The Contractor shall refer to the Principal any enquiries from any media concerning the Contract.

### **1.39 Intoxicating Liquor and Drugs**

Neither the Contractor nor any employee or agent of the Contractor will be permitted to enter a site under the influence of or in possession of any intoxicating liquor, drugs or illegal substance or under the influence of the same.

### **1.40 Qualifications / Competency**

It is the duty of the Contractor to ensure that any task requiring a Qualification or Certificate of Competency is allocated only to a person or persons holding such Qualification or Certificate of Competency to complete the task required.