

## METROPOLITAN FIRE AND EMERGENCY SERVICES BOARD – TERMS AND CONDITIONS FOR SUPPLY OF GOODS AND SERVICES

(Note: In these Terms and Conditions, METROPOLITAN FIRE AND EMERGENCY SERVICES BOARD is referred to as MFESB)

- 1. GENERAL**
  - 1.1 This Order is subject to the following terms and conditions and by accepting the Order or any part thereof, the Supplier agrees to and accepts said terms and conditions and no variation or abrogation of the sale shall be effective unless it is evidenced in writing signed on behalf of the MFESB.
- 2. PACKING**
  - 2.1 The goods must be packed so as to ensure their safe delivery.
- 3. DELIVERY**
  - 3.1 Delivery of the goods must be made at the time, place, and in the manner specified.
- 4. QUALITY**
  - 4.1 The goods must be:
    - a) free from defects in materials and workmanship; and
    - b) at least of merchantable quality.
  - 4.2 Property in, and risk of loss or damage to the goods, passes to the MFESB on delivery and final acceptance by the MFESB.
  - 4.3 The MFESB can inspect the goods at any time prior to acceptance and reject any goods found not to be in accordance with the Contract.
  - 4.4 After acceptance the MFESB can reject goods for any non-conformity with the Contract which could not have been discovered by reasonable inspection before acceptance.
  - 4.5 The MFESB will not be liable to pay for any rejected goods.
  - 4.6 If the MFESB rejects any goods, the Supplier must, without limiting the rights of the MFESB under the Contract or law, comply with a requirement of the MFESB to:
    - a) replace without cost to the MFESB the rejected goods with goods in all respects in accordance with the Contract;
    - b) refund any payment for the rejected goods; or
    - c) repair the goods, on site or otherwise, to the satisfaction of the MFESB and, in the case of (a) or (b) must remove the rejected goods at the Supplier's expense.
  - 4.7 Where the supplier is unable to replace the rejected goods or fails to remedy any default within the period specified on a notice issued by the MFESB, the MFESB at its option may terminate the order and any additional cost and expense incurred by the MFESB in relation to the completion of the order shall be payable by the supplier.
  - 4.8 Where considered necessary by MFESB, the Supplier must provide access to premises for MFESB representatives to inspect the manufacturing of the goods.
- 5. WARRANTY**
  - 5.1 The Supplier warrants that all materials or work supplied will conform to the relevant specification, and be fit and sufficient for the purpose intended, and free from defects in material and/or workmanship.
  - 5.2 Any defective part, material or item may be returned by the MFESB to the Supplier, cartage payable on delivery.
  - 5.3 Any such part, materials or item so returned must be replaced and re-delivered at the Supplier's expense.
- 6. PRICE**
  - 6.1 The price of the goods includes but without limitation:
    - a) all taxes, duties and other imposts for which the Supplier is liable;
    - b) all amounts payable for the use (whether in the course of manufacture or usage of the goods) of patents, copyright, registered designs, trademarks and other intellectual property rights; and
    - c) all charges for supply of the goods; and no extra charges will be made for testing, inspection, packing, delivery, insurance or otherwise.
  - 6.2 Unless this order otherwise provides, the price payable under this clause is exclusive of GST. Any applicable GST is to be paid in addition to the price specified in the order.
- 7. INTELLECTUAL PROPERTY - INDEMNITY**
  - 7.1 The Supplier indemnifies the MFESB against all loss, or expense arising in respect of any action or claim for alleged infringement of any patent, copyright, registered design, trademark or any other intellectual property rights by reason of the purchase, possession or use of the goods.
- 8. ASSIGNMENT**
  - 8.1 The Supplier must not, without consent in writing of the MFESB, assign the Supplier's rights under the Contract.
- 9. SUBCONTRACTING**
  - 9.1 The Supplier must not, without consent in writing from the MFESB, subcontract the whole or any part of the supply of the goods or services.
  - 9.2 The Supplier will be liable to MFESB for the acts or omissions of any subcontractor as if those were the acts or omissions of the Supplier.
- 10. STATUTORY REQUIREMENTS**
  - 10.1 The Supplier shall comply with the requirements of:
    - a) Acts of the Commonwealth;
    - b) Acts and ordinances of the State or Territory in which the work under this order or any part thereof is carried out;
    - c) Ordinances, regulations, by-laws, orders and proclamations under the Acts and ordinances;
    - d) Persons acting in the exercise of statutory powers enabling them to give directions affecting the work under this order.
- 11. INVOICES**
  - 11.1 An invoice will be correctly rendered if it:
    - a) is addressed in accordance with the Purchase Order;
    - b) identifies the purchase order; and
    - c) is, where explanation is necessary, accompanied by documentation substantiating the amount claimed.
- 12. PAYMENT TERMS**
  - 12.1 Payment terms are 30 days of invoice unless otherwise arranged by purchasing personnel.
  - 12.2 Where a discount is allowed for payment within a specified time, the time for taking the discount will not begin to run until the date of the receipt of the invoice or the date of delivery of the goods, whichever is the later.
  - 12.3 If an invoice is returned for correction or is the subject of query the time for taking the discount will not begin to run until the date of the receipt of the corrected invoice or until such time as the query is clarified.
  - 12.4 The due date for payment of invoices which contain disputed items will commence after the settlement of the dispute in accordance with whatever terms are specified on the Order.
- 13. TERMINATION**
  - 13.1 If the Supplier:
    - a) fails to deliver the goods by the date required by the Contract;
    - b) is in breach of any other term of the Contract;
    - c) being an individual, commits an act of bankruptcy, becomes a bankrupt, executes a deed of assignment or deed of arrangement; or
    - d) being a corporation (i) is the subject of a compromise or arrangement with its creditors; (ii) in respect of which a receiver or a receiver manager is appointed; or (iii) in respect of which a provisional liquidator or liquidator is appointed; the MFESB can, without prejudice to any other rights and remedies it has under the Contract or otherwise, terminate the Contract in whole or in part by giving notice in writing to the Supplier.
  - 13.2 On such termination, the MFESB can:
    - a) cease payments under the Contract;
    - b) recover from the Supplier all sums paid for undelivered goods; and
    - c) purchase similar goods from alternative suppliers and claim from the Supplier any loss it may incur in doing so.