



TERMS OF BUSINESS (GOODS AND SERVICES)

1. DEFINITIONS

In these Terms of Business, except to the extent the context otherwise requires:

BIF Act means the *Building Industry Fairness (Security of Payment) Act 2017* as amended and any of its regulations.

Contract means a contract formed between Us in accordance with **clause 3.1** or **3.2**.

Delivery Point means the place for delivery of the Goods as set out in each Purchase Order or as otherwise notified by MRC.

Goods means the goods described in the Purchase Order.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended.

GST, Supply, Taxable Supply, Registered and **Tax Invoice** have the same meaning as in the GST Act.

MRC means Mackay Regional Council ABN 56 240 712 069.

Price means the fees and rates set out in the Purchase Order.

Purchase Order means an order or request, whether oral or written, made by MRC to You, under these Terms of Business.

Services means the services described in the Purchase Order.

SIR means the Supplier Information Request as completed by You and submitted to MRC.

Site means the site where the Delivery Point is situated.

Taxes includes any and all sales, use, personal, property, real property, value added, consumption, stamp, documentary, business, occupation, excise, income, corporation, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever or whensoever, together with any penalties, fines or interest or similar additions, imposed, levied or assessed by any government, governmental, semi-governmental or other relevant authority or otherwise payable on or in respect of the Goods and Service but excludes GST.

You and **Your** means the organisation, individual or partnership to whom MRC directs a Purchase Order.

Your Staff means Your employees, agents, contractors and subcontractors (and employees, agents and contractors of those contractors and subcontractors); **Us** and **We** means both You and MRC.

Writing includes typewriting, printing, lithography, photography and any other mode of representing or reproducing words in a permanent and visible form.

2. AGREEMENT TO SUPPLY

2.1 You will supply to MRC the Goods or Services as specified in each Purchase Order in accordance with these Terms of Business.

2.2 MRC may issue Purchase Orders as it, in its absolute discretion, requires and does not guarantee or represent any volume of goods or services will be obtained from you.

3. FORMATION OF CONTRACT

3.1 Where:

(a) You provide MRC with a written quotation, tender, or offer to supply (**'Your Offer'**);

(b) Your Offer has a validity period;

(c) MRC places a Purchase Order in response to Your Offer within the validity period; and

(d) MRC does not receive written notice of the revocation of Your Offer prior to it accepting Your Offer,

a binding contract is deemed to have been formed between Us on the basis of these Terms of Business.

3.2 Where:

(a) MRC has made a verbal enquiry with You; and

(b) MRC places a Purchase Order as a result of that verbal enquiry, the Purchase Order constitutes an offer to purchase and upon acceptance by You, a binding contract is deemed to have been formed between Us on the basis of these Terms of Business.

3.3 For the purposes of **clause 3.2**, You are deemed to have accepted MRC's offer to purchase made under **clause 3.2(b)**:

(a) as soon as You allocate the Goods or Services against the Purchase Order; or take action to manufacture or obtain the Goods; or communicate with MRC, the content of which confirms or implies acceptance; or

(b) if, after seven (7) days of the date of the Purchase Order, You fail to notify MRC of Your refusal or inability to supply the Goods or Services to MRC.

4. CONTRACT DOCUMENTS

4.1 The Contract between Us consists of

(a) any Purchase Order You receive from MRC;

(b) these Terms of Business;

(c) the SIR as completed by You,

and if there is any inconsistency between these documents, they will be read in the order of priority as set out above.



4.2 No other conditions sought to be imposed by You, either verbally or in writing, prior to or subsequent to the placing of the Purchase Order by MRC apply unless and until specifically accepted in writing by an authorised officer of MRC.

4.3 MRC considers any provision that conflicts with these Terms of Business contained in any prior or subsequent order or communication from you to be material and rejects all such provisions.

5. PRICES

5.1 You agree to supply the Goods and Services for the Price.

5.2 Subject to **clause 10**, the Price is inclusive of all Taxes excluding GST.

5.3 The Price is to be inclusive of all handling, courier and postage fees and stamp duty.

5.4 The Price is fixed and is not subject any adjustment except where:

(a) a Purchase Order is placed under **clause 3.1**, and increases in the Price are expressly provided for in Your Offer; or

(b) a Purchase Order placed under **clause 3.2**, in which case the Price may vary subject to availability of Goods.

5.5 You must immediately notify MRC of any change in the Price. Where You notify MRC of a change to the Price, MRC may cancel the Purchase Order without any cost, penalty or charge.

6. SUPPLY ARRANGEMENTS

6.1 You agree to supply the Goods and/or perform the Services in accordance with:

(a) any specifications, or description provided or referenced in a Purchase Order or Your Offer; and

(b) any relevant Australian standards, laws and regulations.

6.2 You must not supply alternative products to the Goods without MRC's prior written approval.

6.3 MRC may, on 30 days notice to You, change the specifications and/or standards applicable to the Goods and/or Services to be supplied by You pursuant to a Purchase Order. Where such change increases or decreases Your costs in supplying Goods and/or Services, an equitable adjustment will be made to the Price to reflect such increase or decrease in the cost of supply.

6.4 The respective periods stipulated for delivery of the Goods and Services are deemed to be of the essence of the Contract.

6.5 You:

(a) will be fully responsible for ensuring that You and Your Staff supply the Goods and perform the Services on the Site safely; and

(b) accept responsibility for compliance with the Safety Legislation during the term of each Purchase Order.

6.6 If required by MRC, before entering the Site, You must prepare and submit a Work Health & Safety (WH&S)

Management System to MRC for approval which, as a minimum, must address the issues specified by MRC to You (**WH&S Management System**).

The WH&S Management System of the contractor must be the minimum requirement to demonstrate compliance with all duties of an employer specified under legislation.

The contractor must submit a copy of their company WH&S Management System documentation that must include as a minimum requirement:

- WH&S policy and objectives;
- Organisational structure and responsibilities;
- Relevant risk assessments and controls (sample);
- Relevant safe working procedures (index);
- WH&S training and induction processes and records (Certificates of competencies (ticket as an electrician) and licences (truck drivers));
- WH&S inspections and auditing procedures;
- WH&S consultative processes;
- Incident reporting and investigation procedures; and
- Performance monitoring mechanisms.

6.7 MRC may, in its sole discretion, accept in writing the submitted WH&S Management System or notify You of the reasons for not accepting it. If MRC notifies You that the WH&S Management System submitted by You is not accepted, You will amend and resubmit it to MRC for approval within the time set by MRC.

6.8 You acknowledge and agree that:

(a) MRC is not obliged to check or monitor the WH&S Management System or Your compliance with the requirements of the Safety Legislation;

(b) neither MRC's acceptance of a WH&S Management System, anything said by MRC or any of MRC's personnel in relation to a WH&S Management System, or the random audits referred to in this clause relieves, limits or otherwise effects your responsibilities under the Safety Legislation and the Contract;

(c) MRC has obligations under the Safety Legislation;

(d) You must (at your own cost and without any entitlement to any claim of any kind whatsoever) comply with reasonable directions (including stop work directions) given by MRC so as to enable MRC to comply with its obligations under the Safety Legislation;

(e) You must (at Your own cost and without any entitlement to any claim of any kind whatsoever) immediately comply with directions on safety issued by any government, governmental, semi-governmental or other relevant authority;

(f) You will supply the Goods and provide the Services in such manner as to not place MRC in breach of its obligations under the Safety Legislation; and

(g) A pre-start meeting between **MRC** and You will occur before any work commences on Site to discuss any relevant WH&S issues and reporting mechanisms.

Further meetings will be conducted as warranted and identified and these meetings will all be documented.



6.9 You must ensure that Your staff:

- (a) comply with any Site-specific safety requirements for the Site, the WH&S Management System accepted by MRC and MRC's own safety system;
- (b) attend a Site-specific health and safety induction prior to starting work on the Site;
- (c) ensure that all machinery, tools, plant and equipment used by You and Your Staff is maintained so as to comply with Your obligations under this Contract;
- (d) program and co-ordinate the supply of the Goods and the performance of the Services so as to minimize the effect on MRC's business operations; and
- (e) at all times ensure that where appropriate personal protective equipment (PPE) as deemed necessary by statutory requirements or by Councils PPE Management Policy is worn.

6.10 You must notify MRC as soon as possible after the occurrence on Site of any reportable event under the Safety Legislation including:

- (a) any work related illness, work injury, dangerous event, or serious bodily injury as defined by the *Work Health and Safety Act 2011*; and
- (b) any serious electrical incident or dangerous electrical event as defined by the *Electrical Safety Act 2002* (Qld). And, where requested by MRC, conduct a formal investigation at Your expense in accordance with MRC's incident report system procedures.

6.11 You must, in relation to the supply of the Goods or the performance of the Services, provide MRC with copies of all notices and correspondence of whatsoever nature concerning the Safety Legislation within one (1) business day of the dispatch and/or receipt by You of any such notice or correspondence.

6.12 MRC may carry out random audits to ensure that all Services being performed and carried out in accordance with any Site-specific safety requirements, MRC's safety system and the WH&S Management System.

6.13 If after resubmitting a WH&S Management System to MRC, more than twice under clause 6.6, You fail to have Your plan accepted by MRC pursuant to the termination provisions of this Contract and You will have no claim whatsoever against MRC arising from such termination.

6.14 You indemnify MRC and agree to keep MRC always indemnified against:

- (a) claims by any person against MRC in respect of personal injury or death or loss of or damage to any property;
- (b) loss of or damage of property of MRC; and
- (c) all costs, expenses, fines, losses or damages arising out of enforcement of the Safety Legislation,

6.15 You will, on request, provide to MRC a record of the total hours worked by Your Staff on the Site.

6.16 You will:

- Undertake a Site hazard identification to systematically identify and assess hazards;
- Establish and maintain a register (or form) of on Site hazards in which the contractor will record each identified hazard, the date it was identified and the measures taken to control the hazard; and
- The contractor will make the register (or form) available to **MRC** for inspection.

6.17 Specific indication for hazardous work must be outlined e.g., hot work – using a hot work permit, hazardous substances, confined spaces permit, asbestos, excavation, trenching, height work and working with explosives.

6.18 You must prepare and submit risk assessments and relevant control strategies prior to commencement of work under the Contract. The completed risk assessment and control strategies will be reviewed and approved by **MRC** prior to the commencement of work under the Contract. Relevant generic risk assessments and controls will be acceptable.

6.19 You must ensure that all workplace staff are competent in the work being undertaken. The contractor will provide the employees and subcontractors with information about hazardous work processes or material and supervision. All employees are to have a general induction and the contractor is to produce records of their construction industry induction ticket. Each person visiting a construction workplace are to receive a Site-specific induction.

6.20 You are required to report any serious bodily injuries or dangerous events to the relevant authority within the specified time frame. In addition, You must promptly notify **MRC** of any accident, injury, property or environmental damage, which occurs during the carrying out of the Contract work. All lost time incidents are to be immediately notified to **MRC**. You must within three (3) days of any such incident provide a report giving complete details of the incident, including results of the investigations into the causes, and any recommendations or strategies identified for the preventions in the future.

6.21 Understand that the provision of Goods or Services which does not comply with the requirements of the WH&S Legislation 2011 or places Council staff and public at risk constitutes a substantial breach of Contract will enact the provision of Clause 18 of this Agreement.

7. DELIVERY

7.1 The Price is inclusive of the costs of delivery of the Goods and/or Services by You to the Delivery Point, including any packing necessary for the safe, proper and suitable transport and storage of the Goods unless excluded in the relevant Purchase Order.

7.2 The Goods must be delivered in good condition and without damage caused by delivery. You must immediately replace any damaged Goods, at no additional cost to MRC.

7.3 You will provide a detailed delivery docket with every shipment which delivery docket must contain as a minimum, the following information – MRC's Purchase Order number and Purchase Order item number, date, Your details (including the



name and telephone number of the packer), quantity dispatched, item description and part number and details of any items on back order. One delivery docket is to be packed with the Goods, the other is to be enclosed and attached to the outside of the consignment.

7.4 All of Your correspondence (including without limitation quotations, offers and Tax Invoices) must state where packing is returnable and the amount of deposit charges, if any. All returnable packing:

- (a) must be clearly marked as such;
- (b) must bear a return address; and
- (c) will be returned freight forward at MRC's convenience by transport selected by MRC, unless otherwise stated in the relevant Purchase Order.

7.5 You will be liable for any difference in freight charges arising from a failure to follow any transport instructions in a Purchase Order or to properly describe the Goods transported.

7.6 No deliveries effected outside the normal working hours of MRC will be accepted unless by prior arrangement with MRC.

7.7 Unless otherwise agreed, offloading will be carried out by MRC. However, where packing units within a consignment are larger than the Australian Standard pallet size and/or weigh more than one (1) tonne, You must make delivery arrangements with MRC at least two (2) days prior to delivery.

7.8 We will reasonably assist each other in obtaining documents and other information desirable for the prosecution of claims against carriers of the Goods.

8. IMPORT LICENCES

If it is necessary for the performance of the Contract, for either of Us to hold or obtain any import licence, consent, by-law exemption, or authority then either or both of Us, as appropriate, are obliged to apply for such import licence, consent, by-law exemption or authority. If such licence, consent, by-law exemption, or authority is refused then the Contract will be treated as being discharged and neither of Us will be under any liability to the other.

9. INSPECTION AND TESTING

9.1 MRC or its designated agent may inspect, test or expedite all work on Goods and Services. You must make this a condition of any subcontracted work. Any subcontracting, inspection, testing and expediting done by the MRC or its designated agent will not relieve You of any obligations contained in the Contract.

9.2 Notwithstanding any prior payment, Goods and Services are subject to inspection and testing by MRC after arrival and unpacking at the Delivery Point. If the Goods are to be installed or incorporated into a plant or premises, such inspection and testing may be carried out after installation or incorporation and under operating conditions.

9.3 If upon or after any inspection or test, any Goods or Services are found to be defective or fail to meet the specifications or any other requirements of the Contract, MRC may return the Goods to You at Your expense or require the rejected Goods to be immediately resupplied or Services to be re-performed, at its discretion.

9.4 Upon return of any unsatisfactory or defective Goods, You must reimburse MRC for any amounts paid by MRC on account of the Price of returned Goods, and any reasonable cost incurred by MRC in connection with the delivery or return of the Goods.

9.5 All Goods which have been notified to You as rejected, are held by MRC at Your risk.

10. TERMS OF PAYMENT

10.1 If any supply made pursuant to or in connection with the Purchase Order is a Taxable Supply. MRC will pay the GST in respect of that supply to You, where the GST is calculated in accordance with the GST Act.

10.2 You will issue MRC a Tax Invoice for Goods and Services supplied on the basis and in the form as advised by MRC from time to time which must:

- (a) include prices and payments stated and made in Australian dollars;
- (b) state MRC's Purchase Order number; and
- (c) show the total amount payable and the GST payable calculated in accordance with the GST Act.

10.3 A Tax Invoice must be forwarded to the address stated on the Purchase order. Failure to do so may result in delay of payment to You.

10.4 MRC will pay You within the period stated in the relevant Purchase Order and, if no period is stated, within 30 days of receiving Your Tax Invoice.

10.5 If any Tax Invoice or any part of any invoice is disputed, MRC will not pay the disputed invoice or in part, unless a new Tax Invoice is issued for the undisputed amount (If any) only. The parties must settle the disputed invoice or part in accordance with **clause 20**.

10.6 Where MRC's Purchase Order number is not quoted, the Tax Invoice will be returned to You for amendment which may delay payment.

10.7 You and MRC acknowledge and agree that each supply made by You pursuant to or in connection with the Contract is made:

- (a) on a progressive or periodic basis;
- (b) for consideration that is to be provided on a progressive or periodic basis; and
- (c) each progressive or periodic component of the supply is to be treated as a separate Supply.

10.8 The issue of a payment schedule under the BIF Act will not prejudice or in any way affect any of MRC's rights under this **clause 10**, or MRC's ability to assess an invoice submitted by You.

11. WARRANTY

11.1 You warrant and represent to MRC:

- (a) the accuracy and correctness of all performance data,



measurements, specifications and details quoted in catalogues, brochures, descriptive literature, quotations, offers or tenders subject to the tolerances specified in those documents;

(b) You have free and unencumbered legal and equitable title to the Goods sold and delivered to MRC; and

(c) as at the date of the Contract, You are not aware of any actual or threatened claim for infringement of patent, copyright, design, or trade mark, or for the breach of any obligation of confidence, arising out of the manufacture, sale or use of the Goods or the supply of the Services.

11.2 You must notify MRC in writing promptly upon becoming aware at any time of any actual or threatened claim referred to in **clause 11.1(c)**.

11.3 You warrant that the Goods supplied, delivered and installed under the Contract will:

- (a) be of good quality suitable for their respective purposes;
- (b) be free from all defects;
- (c) be of the current manufacture and highest grade;
- (d) be delivered in a timely manner;
- (e) comply with the specifications and warranties as provided;
- (f) comply with Australian Standards and the law;
- (g) where not manufactured by You, meet the current specifications of the manufacturer of the relevant Good; and
- (h) be new unless otherwise agreed with MRC.

11.4 You warrant that any Services provided under the Contract will:

- (a) be performed by qualified and trained personnel;
- (b) be performed with due care and skill;
- (c) be fit for the purposes for which those types of services are commonly bought and any other purposes which MRC tells You about;
- (d) comply with Australian Standards and the law; and
- (e) comply with the specifications and warranties, as provided.

11.5 Without limiting any other term or warranty under the Contract, You warrant that all Goods and/or Services You supply will perform their function, without fault, during Your warranty period or 12 months, whichever is longer.

11.6 Where a defect in the Goods or Services supplied under the Contract occurs within 12 months of the Goods or Services having been accepted by MRC, or within Your warranty period, whichever is the longer, You will, when called upon to do so by MRC, at Your own cost and with all due diligence, replace at the Delivery Point the defective or damaged Goods or Services with Goods or Services complying with the requirements of the Contract, or otherwise make good the damage or defect if convenient to MRC, to comply with the Contract.

12. INDEMNIFICATION

12.1 Subject to **clause 12.3**, You will indemnify MRC from and against any and all claims, demands, suits, liabilities, causes of action, losses, expenses, damages or penalties, including without limitation court costs and reasonable legal fees, for injuries (personal or bodily), or property damage, to the extent arising or resulting from, or caused by:

- (a) the negligence of You or Your Staff; or
- (b) defective Goods or Services.

12.2 You agree to extend the benefit of the indemnity in **clause 12.1** to MRC's officers, directors, employees, agents, consultants and representatives.

12.3 Your liability in relation to property damage under **clause 12.1** is limited to \$20 million unless otherwise specified in the Purchase Order.

13. INTELLECTUAL PROPERTY

13.1 You assign to MRC all Intellectual Property Rights which may arise in respect of, or as a result of, the performance of the Services and MRC grants to You a non-transferable, royalty free licence to use those Intellectual Property Rights in the performance of the Services.

13.2 You will pay all royalties and expenses, and be liable for all claims, in respect of the use of patent rights, trade marks or other protected intellectual property rights, for or in connection with any Goods or Services supplied under the Contract, and will indemnify MRC against all claims which may arise as a result of the use of these.

13.3 MRC will indemnify You against claims arising from infringement of patent rights, trade marks or other protected intellectual property rights, where such infringement results from compliance by You with MRC's instructions in relation to designs prepared by MRC.

14. CONFIDENTIALITY

We must keep each others confidential information confidential and may only disclose that information to the extent required:

- (a) to perform the Contract;
- (b) by law or a government body or authority; or
- (c) in connection with legal proceedings.

15. RISK AND PROPERTY IN GOODS

15.1 Subject to **clause 15.3**, risk in the Goods and Services remains with You and does not pass to MRC until the Goods are delivered to, inspected by, and accepted by, MRC at the Delivery Point. The signing or acknowledgement of receipt of the Goods does not constitute acceptance of the Goods by MRC.

15.2 MRC will be deemed to have inspected and accepted the Goods when MRC puts the Goods to their ordinary and intended use.



15.3 Where MRC selects and contracts with a transporter of the Goods directly, then if stated in a Purchase Order, risk in the Goods will pass to MRC immediately after the Goods have been loaded onto the transporter's vehicle.

15.4 Title in the Goods delivered passes to MRC at the same time risk passes under clause 15.1 or 15.3 as applicable, regardless of whether all amounts have been paid by MRC to You.

15.5 Where You supply replacement Goods, risk and title in the replaced Goods passes to MRC upon replacement.

15.6 Where Goods have either been lost or damaged in transit while at Your risk, You will, with take all necessary immediate action to either replace the Goods or arrange repairs, whichever is mutually acceptable to Us. MRC will sign all carriers' delivery documentation 'subject to check' (STC) and is responsible for notification to You within three (3) days of receipt, in the case of damage, or 10 days from receipt of advice, in the case of loss in transit.

16. INSURANCE

You must hold all insurances that a prudent supplier of the Goods and/or Services would hold, including without limitation a comprehensive public and products liability insurance providing cover in respect of each and every claim to an amount of not less than \$20 million or as otherwise specified in a Purchase Order.

17. CANCELLATION

17.1 MRC will notify You in writing if it wishes to cancel a Purchase Order and terminate the Contract.

17.2 You must notify us in writing of any reasonable cancellation charges you wish to impose within two (2) business days of MRC giving You notice of cancellation.

17.3 MRC agrees to pay such cancellation charges provided, in MRC's reasonable opinion, they represent the genuine loss incurred by You through the cancellation of the Purchase Order.

18. TERMINATION

18.1 If either of Us breaches the Contract in a material way, the other may give notice requiring the breach to be remedied within 30 days. If the breach is not so remedied, the party serving notice may serve a further notice terminating the Contract with immediate effect.

18.2 Council may terminate this Agreement by notice in writing to the contractor at any time for its sole convenience.

18.3 On termination of the Contract for any reason, each of Us will return any property of the other (including any confidential information). However, We may each retain one copy of any documentation or software related to the Goods or Services.

18.4 Either of Us may immediately terminate the Contract by written notice if the other party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator appointed, or calls a meeting of its creditors or is unable to pay debts as they fall due or for any other reason ceases to carry on business, or if any of these events appear reasonably likely to occur.

18.5 **Clauses 6, 7, 9, 10.7, 11, 12, 13, 14** and this **clause 18**

survive termination or expiry of the Contract.

19. FORCE MAJEURE

19.1 Neither of Us will be held liable for breach of contract or any losses, damage or injury incurred to the other wherever performance of the Contract is prevented by circumstances which are deemed to be outside Your or MRC's control ('force majeure circumstances').

19.2 In the event that either party is unable wholly or in part to perform its obligations under the Contract as a result of the occurrence of force majeure circumstances, such party will immediately give notice to the other of the details of such occurrence, and both parties will make arrangements and adjustments to the Contract as necessary. Unless otherwise agreed in writing, upon cessation of the event affecting performance of the Contract, both parties shall as far as practicable complete performance of their respective obligations under the Contract.

20. DISPUTE RESOLUTION

20.1 Any disputes will be settled by Us in good faith. Before resorting to external dispute resolution mechanisms, We must attempt to settle any dispute under the Contract by negotiation, using the procedure in **clause 20.2**.

20.2 We must refer any dispute initially for resolution to a representative nominated by You, and a representative nominated by MRC, who will to endeavour to resolve the dispute within 14 days.

20.3 If We can not resolve the dispute under **clause 20.2**, then either of Us may, in our discretion, commence mediation by giving notice to the other and referring the matter to Australian Commercial Dispute Centre in Queensland requesting the appointment of a mediator and conduct of a mediation in accordance with this **clause 20**. The mediation will be conducted in accordance with rules of the Australian Commercial Dispute Centre in Queensland. We must comply with those rules and guidelines in connection with all matters relating to the mediation.

20.4 Either of Us may commence court proceedings relating to any dispute arising under the Contract at any time where a party seeks urgent interlocutory relief.

20.5 Other than as set out in **clause 20.4** neither party may commence court proceedings relating to any dispute arising under the Contract, except to enforce any mediation settlement or where mediation has failed to resolve the dispute.

20.6 MRC may raise such defence or matters as it sees fit in response to any dispute raised under this **clause 20** by You and will not be bound by the matters contained in any payment schedule under the BIF Act.

21. PRIVACY

21.1 MRC may need to collect personal information about You or Your Staff to create a supplier account. MRC can only process Your invoices once this account has been correctly set up. MRC will not disclose personal information about You or Your Staff to any external parties unless the disclosure is:

(a) required by law (eg the Australian Tax Office);



(b) is authorised by law (eg to protect our interests or where we have a duty to make such disclosure); or

(c) You have consented for MRC to disclose the information about You.

22. SERVICE OF NOTICES AND PURCHASE ORDERS

22.1 Unless otherwise specified in the Contract, any notice given under the Contract must be in writing and may be served by either of Us on the other by hand delivery or pre-paid post to the address of the other, or by facsimile to the other's nominated facsimile number, or by email to the other's nominated email address. Notices will be deemed served:

- (a) if by hand delivery, when it is delivered;
- (b) if by pre-paid post, on the third business day after posting (seven (7) if posted to or from a place outside Australia); and
- (c) if by facsimile, on receipt by the sender of a transmission report by the machine from which the facsimile is sent, indicating that the facsimile was sent in its entirety to the facsimile number of the recipient; and
- (d) if by email in accordance with *Electronic Transactions Act*.

22.2 All claims issued under the BIF Act must be served on MRC at the following address, and otherwise in accordance with **clause 22.1**:

Attention: Contracts Coordinator
Mackay Regional Council
Civic Centre Gordon Street
MACKAY QLD 4740

PO Box 41
MACKAY QLD 4740
Fax No. 07 49442400

23. GENERAL

23.1 No amendment to the Contract has any force unless it is in Writing and signed by both of Us.

23.2 Neither of Us may assign nor purport to assign the Contract or any right under the Contract without the prior written consent of the other which consent may not be unreasonably withheld.

23.3 The covenants, conditions, provisions and warranties contained in the Contract do not merge or terminate upon completion of the transactions contemplated in the Contract but to the extent that they have not been fulfilled and satisfied or are capable of having effect, remain in full force and effect.

23.4 The Contract constitutes the entire agreement between Us as to its subject matter and supersedes and cancels all prior arrangements, understandings and negotiations in connection with it.

23.5 We must do all things and execute all further documents necessary to give full effect to the Contract and refrain from doing anything that might hinder the performance of the Contract.

23.6 Each Contract is governed by the laws of Queensland and the Commonwealth of Australia and both of Us party irrevocably

submit to the non-exclusive jurisdiction of the courts of Queensland.

23.7 Any part of the Contract that is held to be unlawful or unenforceable by a court of competent jurisdiction is severed from the Contract and the remaining provisions will continue to operate.

23.8 Neither of Us will be taken to waive any right under the Contract except if the waiver is given in writing and is signed.

24. SET OFF

Without limiting Council's rights under any other part of this document, and notwithstanding any payment by Council under this document, Council may deduct from any moneys due to the contractor any sum which is payable by the contractor to Council whether or not Council's right to payment arises by way of damages, debt, restitution or otherwise and whether or not the factual basis giving rise to Council's right to payment arises out of this document, any other contract between it and the contractor, or is independent of any such contracts.

Nothing in this clause shall affect the right of Council to recover from the contractor the whole of such moneys or any balance that remains owing.

25. INTERPRETATION

In the Contract, except to the extent the context otherwise requires:

(a) the singular includes the plural and vice versa and a gender includes other genders;

(b) a reference to a party is to be construed as a reference to a party to the Contract;

(c) a reference to a party to the Contract or any other document or agreement includes its successors and permitted assigns;

(d) a reference to an item in the background, clause, schedule, annexure or appendix is a reference to an item in the background, clause or schedule, annexure or appendix to the Contract and references to the Contract include its schedules and any annexures;

(e) where a word or phrase is given a particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings;

(f) a reference to a document or agreement including the Contract includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time; and

(g) in the interpretation of the Contract, headings are to be disregarded.



You agree that You will supply Goods and Services in accordance these Terms of Business and any Purchase Order issued by MRC, from time to time.

Name: _____

Position: _____

Suppliers Name: _____

Signature: _____

For and on behalf of Supplier

This Policy states the commitment of Mackay Regional Council (Council) to the health and safety of all people who work or visit our workplaces, or have the potential to be affected by our activities.

This policy applies to all Council workers – including contractors and labour hire, and visitors to our premises. It also applies to Council workers who are working at premises other than Council's.

Health and safety is fundamental to the way Council does business. Our aim is that no person shall come to any harm while working at or visiting Council's workplaces or facilities. We will strive for Zero Harm.

Our corporate value of *Employee Health and Safety* is supported by the following behaviours:

- We have the courage to speak up if something is not safe;
- We take personal responsibility for our safety and the safety of others;
- We behave safely in everything we do;
- We reward and recognise safe behaviour;
- We do not tolerate unsafe behaviour and practices.

Council will adopt and comply with the *Work Health and Safety Act 2011*, the *Work Health and Safety Regulation 2011*, and other relevant legislation, codes of practice, and industry standards.

Council will also meet its requirements as a member of the Queensland Local Government Workcare (LGW) worker's compensation self insurance scheme.

All workers with management or supervisory responsibilities are accountable for the health and safety of workers and visitors in their respective work areas.

Council expects that all workers and visitors will follow safe practices and will make every effort to reduce the risk of injury to themselves and others.

We all have an obligation to ensure we have a safe and healthy working environment.

Council expects all workers to actively participate in achieving this goal, on the understanding that there is nothing so important or urgent that it should ever compromise safety.

The actions to implement this policy include:

- The implementation, maintenance and continual improvement of Council's WHS Management System across all workplaces;
- Ensuring that risk management is undertaken for appropriate activities, and the responsible person is satisfied that all foreseeable hazards are identified, assessed (where appropriate) and controlled;
- The establishment of measurable objectives and targets to facilitate continual improvement of WHS in the workplace and to reduce work related illness and injury;
- The provision of appropriate health and safety training and the dissemination of health and safety information to all workers and visitors to the workplace;
- Consulting with workers, and other companies (including contractors) about decisions that may affect their health and safety;
- The provision of adequate human and financial resources to ensure effective implementation of the WHS Management System;
- The documentation and communication of WHS responsibilities for all workers;
- The communication of this policy throughout Council via display and training.



Michael Thomson
Chief Executive Officer

19/1/2021

Date