

Western Power Purchase Terms and Conditions (DM#: 7175822)

Definitions

1. Terms defined below are given their respective meanings when used in these purchase terms and conditions (**Terms**) and the attached purchase order (**Order**) (together comprising a contract between WP and the Supplier):

Business Day means a day on which banks are open for general banking business in Perth, Western Australia excluding a Saturday, Sunday or public holiday in that city.

Confidential Information means the Terms and information (regardless of its form) which is disclosed directly or indirectly by WP and treated or designated as confidential by WP or the Supplier knows, or ought to know, is confidential.

Contract IP means the intellectual property rights in subject matter developed by the Supplier in the performance of the Services or otherwise however under the Terms but does not include Existing IP.

Customs Duty means the imposition of charges and duties under the Customs Act 1901 (Cth).

Date for Delivery means the date for delivery specified in the Order or, if no such date is specified, four weeks after issue of the Order.

Delivery Address means the delivery address specified in the Order.

Drug and Alcohol Management Procedure means the Western Power Drug and Alcohol Management Procedure.

EPS means Mincom Axis or any other electronic procurement system used by WP from time to time.

EPS Conditions means the terms and conditions for the use of the EPS as applicable from time to time.

Existing IP means the intellectual property rights owned by the Supplier prior to the commencement of the Services.

Goods means the goods stated in the Order and includes software and, unless expressly stated otherwise, Services.

Invoice means an invoice that complies with clauses 38 and 39.

Order Number means the order number specified in the Order.

Personnel means the Supplier's officers, employees, delegates, subcontractors, partners, agents and service providers of any nature.

Policies and Guidelines means all of WP's policies and guidelines as varied from time to time.

Purchase Price means the price payable in respect of the Order which is deemed to include, unless expressly stated otherwise in the Order, all costs of delivery including any Customs Duty, storage and packaging of the Goods.

Services means the services provided or to be provided by the Supplier under the Terms.

Service Levels means:

- (a) the exercise of that degree of skill, diligence, prudence and foresight that would reasonably be expected from a reputable and prudent contractor in performing services similar to the Services under conditions comparable to those applicable under the Terms; and

- (b) the service levels, standards and codes as would ordinarily be applied in the circumstances.

Supplier means the party supplying the Goods.

Term means the period specified in the Order.

Warranty Period means the warranty period specified in the Order or, if no warranty period is specified, a period of 12 months from the date on which the Supplier delivers the last of the Goods to the Delivery Address.

WP or Western Power means Electricity Networks Corporation ABN 18 540 492 861 trading as Western Power.

Other contracts

2. If at the time WP issues an Order, WP and the Supplier are parties to a contract covering supply of the Goods, WP will quote the relevant contract number in the Order. The Terms will not apply to the Order, other than this clause 2. Quotation in the Order or notification of the relevant contract number constitutes conclusive evidence that the relevant contract applies to the Order.

Order

3. Subject to any contract prevailing over the Terms under clause 2, by issuing the Order to the Supplier, WP offers to purchase the Goods from the Supplier on the Terms. By accepting the Order, the Supplier agrees to supply the Goods on the Terms. Unless stated otherwise in the Order, an Order expires if it has not been fully accepted within 10 Business Days of the date of the Order. A partial acceptance of an Order constitutes a rejection of the Order unless the Order specifically states that it may be accepted as to certain identified parts only.

Delivery and provision of Services

4. The Supplier must deliver the Goods to the Delivery Address by no later than the Date for Delivery and in accordance with the Terms. The Supplier must provide the Services during the Term.
5. If the Supplier is unable to deliver the Goods by the Date for Delivery, the Supplier must immediately notify WP. WP reserves the right, in its absolute discretion, to cancel the Order by two Business Days written notice if the alternative date for delivery proposed by the Supplier is unacceptable to WP. The Supplier is not entitled to any payment, costs or damages from WP by reason of such cancellation.

Quality, guarantee and defects inspection

6. All Goods supplied must be of merchantable quality, conform to any relevant description, specification or other requirements in the Terms and, unless otherwise stated in the Order, be new.
7. The Supplier warrants that the Goods will be free from defects in quality, design, materials and workmanship for the Warranty Period (if any).
8. All Goods delivered are subject to WP's inspection and testing within a reasonable time after delivery at the Delivery Address. If, upon inspection or testing, WP finds any of the Goods to be defective, of poor quality or otherwise not in accordance with the Terms, the Supplier must, after receiving notice from WP that the Goods are rejected, collect the Goods at the Supplier's expense. WP has no liability to pay for Goods that have been rejected under this clause 8 and the Supplier is not entitled to any costs or damages from WP by reason of such rejection.
9. Without limiting WP's rights under clause 8, if WP identifies any defect in design, quality, materials or workmanship during the Warranty Period, it may give

notice of this occurrence to the Supplier. On receipt of notice the Supplier must on request collect the Goods or, if Services are concerned, rectify the defect at the Supplier's expense. Any Goods collected under this clause (and not rejected by WP under clause 8) must be repaired or replaced as soon as possible at the Supplier's cost. Alternatively WP may, at its option, retain the Goods but withhold from payment an amount reasonably determined by WP as compensation for the defect.

Warranties as to ownership

10. Subject to clause 27 as to Services involving software, the Supplier represents and warrants that as at the Date for Delivery it is the legal and beneficial owner of the Goods and no person other than the Supplier holds or is entitled to hold any interest in the Goods.
11. The Supplier represents and warrants that as at the Date for Delivery there are no encumbrances or liens over the Goods.

Risk and insurance

12. The Supplier is responsible for all losses or damage to the Goods until they are delivered to WP at the Delivery Address in accordance with the Terms.
13. The Supplier must, at its cost, ensure that the Goods are insured against all risks to the point of delivery at the Delivery Address and, if the Goods are rejected or returned by WP under clauses 8 or 9 respectively, from the time the Supplier collects the Goods from WP.

Title

14. Title to the Goods passes from the Supplier to WP upon delivery in accordance with the Terms.

Compliance and reporting

15. The Supplier must at its own expense comply with all State, Federal and local laws, regulations or orders applicable to the purchase, manufacture, processing, delivery and pricing of the Goods and provision of the Services.
16. The Supplier must provide WP with such reasonable assistance as requested by WP in order for WP to satisfy and comply with any laws applying to WP and relating to the Terms.
17. The Supplier must comply with any direction given by WP or any of its agents or employees when on WP's site, including when delivering the Goods and generally regarding the performance of the Services.
18. From time to time, WP may request the Supplier to provide a written report setting out in detail such information about the Goods, or any other obligations of the Supplier under the Terms, as WP may require, and the Supplier must provide the report to WP within 10 Business Days of that request, unless another timeframe is stipulated in WP's request.

Drug and Alcohol Management Procedure

19. The Supplier must ensure that its employees and contractors at all times when on WP's premises or sites, comply with the objectives, terms and obligations of the Drug and Alcohol Management Procedure. {Note: the Drug and Alcohol Management Procedure sets out accepted alcohol and drug Blood Alcohol Concentrations and drug detection levels.} If you wish to see the Procedure, please contact your WP representative for a copy.
20. If any employees or contractors of the Supplier are on a WP premises or site, WP may require the relevant employees or contractors (or both) to submit to drug and alcohol testing and the Supplier must ensure that its

employees and contractors comply. The Supplier must pay the costs associated with this testing in accordance with the invoice issued to the Supplier.

21. WP may refuse entry to, or remove from, any of its premises or sites any employee or contractor of the Supplier that does not comply with clause 20 or the objectives, terms and obligations of the Drug and Alcohol Management Procedure, and the Supplier will not be entitled to an extension of time to the Date of Delivery or any other compensation with respect to any delay caused.

Specific terms in relation to Services

22. The Supplier must provide the Services in accordance with the Service Levels.
23. The Supplier warrants that it and any Personnel engaged to perform the Services are competent and have all the necessary skills, training and qualifications to carry out the Services in accordance with the Terms.
24. The Supplier has sole responsibility for providing all resources and equipment necessary to perform the Services, whether they are carried out at WP's premises or elsewhere.
25. The Supplier must keep clean and tidy all locations on which the Services are performed.
26. The Supplier acknowledges and agrees that upon creation of the relevant subject matter, the unencumbered ownership of all Contract IP vests in WP. The Supplier hereby assigns the unencumbered ownership of all Contract IP to WP.
27. The Supplier grants to WP a perpetual, irrevocable, royalty-free, world-wide licence to exercise and sublicense the Existing IP to the extent required to use, reproduce, deal with, maintain, remedy defects or omissions in, modify and develop the Services.
28. The Supplier must take all steps reasonably necessary to give effect to the requirements of clauses 26 and 27.
29. The Supplier must acquaint itself with and comply with the latest editions of the Policies and Guidelines.
30. The Supplier must, within 60 minutes of its occurrence, report to WP all incidents, injuries or damage to property or the environment in accordance the applicable requirements in the Policies and Guidelines (if any) or as otherwise approved by WP, and take all reasonable steps to rectify the incident, injury or damage. Incidents must be reported to the incident hotline on 1300 225 597.
31. If the Services involve services for the public, the Supplier must:
 - (a) to the extent practicable, implement WP's "Disability Access and Inclusion Plan" prepared under the *Disability Services Act 1993 (WA)*; and
 - (b) provide a report by 30 May each year during the Term, and on the end of the Term, reporting on the extent to which the Supplier has implemented Western Power's "Disability Access and Inclusion Plan". For details on Western Power's "Disability Access and Inclusion Plan" refer to Western Power's website.

Insurance

32. The Supplier must for the Term (at its own cost) effect the following insurance policies and any further policies listed in the Order, and for the higher of the cover amounts stated below and any cover amount stated in the Order, from one or more insurers with a current Standard & Poor's rating of not less than A- or a similar rating from another agency acceptable to WP:

- (a) Employee Insurance: Insurance against any claim in respect of any personal injury to or death of any person employed or engaged by the Supplier which arises out of, or is caused or contributed to by, the performance or non-performance of the Services by the Supplier or its subcontractors, agents or employees. Required insurance amount: Such amount as prescribed from time to time by the Workers' Compensation and Injury Management Act 1981 (WA) or any other applicable legislation.
 - (b) Motor Vehicles and Equipment: Insurance against all loss and/or damage to all items of the Supplier's plant and equipment (whether owned, hired or leased) used in the performance of the Services. The Supplier must insure all vehicles with (i) compulsory motor vehicle third party insurance, and (ii) comprehensive motor vehicle and third party liability insurance. Required insurance amount: no less than \$10 million for any one occurrence and unlimited as to the number of occurrences.
 - (c) Public and Product Liability Insurance: Insurance against any claim in respect of loss or destruction of, or injury or damage to, or loss of use of any real or personal property, or any personal injury to or death of any person, arising out of, or caused by the Goods or the performance or non-performance of the Services by the Supplier or its subcontractors, agents or employees or the quality, disposal or sale of products used by the Supplier in the performance of the Services. Required insurance amount: \$10 million in respect of any one claim and unlimited as to the number of claims.
33. The Supplier must pay all premiums and all deductibles on the policies of insurance when due.
34. Copies of the certificates of currency for the policies must be provided by the Supplier to WP within 5 Business Days of a written request by WP.

Cancellation

35. WP may, at its option, cancel (in whole or part) any Order ordered prior to delivery of the relevant Goods. If the Order relates to the Supplier's standard stock merchandise, WP's only liability to the Supplier arising from this cancellation is to pay for the Goods delivered prior to the date of cancellation.
36. WP may, at its option and at any time, cancel any Services ordered prior to performance. WP's only liability to the Supplier arising from this cancellation is to pay for the Services performed prior to the date of cancellation.

Payment

37. In consideration of the Supplier delivering the Goods, WP must, subject to the Terms, pay the Supplier the Purchase Price.
38. The Supplier must provide WP with an invoice for the Purchase Price as required by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
39. The invoice must be addressed to:
- Accounts Payable, Western Power
Perth BC,
Locked Bag 2503
PERTH WA 6849

and must quote the Order Number. If an invoice does not quote the Order Number it will be returned to the Supplier and the Supplier must issue a replacement invoice that complies with this clause 39.

40. WP will pay the Supplier the amount set out in the Invoice within 42 days of the date of the Invoice. WP may withhold payment when the Goods have not been supplied in accordance with the Terms and deduct from payment any money owed by the Supplier to WP under the Terms or otherwise.
41. (a) The Supplier must apply for and use its best endeavours to obtain the full benefit of all:
- (i) reductions or refunds of Customs Duty, whenever they become available (prior to delivery of the Goods); and
 - (ii) tariff concession orders or ministerial determinations that WP is or may be entitled to claim and has notified the Supplier.
- (b) The Supplier must notify WP, in writing, of each application made under subclause 41(a) and the outcome of that application, within 14 days of application and upon the determination of the application respectively.
- (c) WP must adjust the Purchase Price to give WP the full benefit of all concessions, determinations, reductions and refunds, obtained or which can be claimed.

Confidentiality and media

42. The Supplier must keep confidential, and not use or disclose, any Confidential Information, except as permitted by the Terms or with WP's prior written consent. The Supplier must not make any public announcement, issue any media release or disclose for distribution through any communications media any information relating to the Terms, without WP's prior written consent.

General

43. The Terms will be construed and interpreted in accordance with the laws of Western Australia and the parties submit to the non-exclusive jurisdiction of the courts of that State.
44. All notices and other documents given pursuant to the Terms must be in writing and must be delivered by hand, post, facsimile or email to the receiving party at its address in the Order or as otherwise notified by the receiving party to the sending party.
45. The Supplier may not assign or subcontract any rights or obligations under the Terms without WP's prior written consent.
46. A waiver of a breach of any provision of or variation to the Terms must be in writing.
47. If WP is restructured by law or through other means, including the use of a subsidiary or associated companies or transfer of assets, rights and liabilities, then the rights and obligations of WP under the Terms are assigned to and assumed by the appropriate legal entity as determined by WP or the successors of WP under the restructure.
48. WP has no liability to the Supplier whatsoever for giving a third party access to the Terms or documents relating to the Terms in accordance with the Freedom of Information Act 1992 (WA).
49. In carrying out its obligations under the Terms, each party is acting as an independent contractor to the other party. Nothing in the Terms creates a partnership, trust or agency between the parties or imposes any fiduciary duties on either party in relation to the other, unless expressly stated.