

**Section C Conditions of Contract**

# For the Operation of Wadeye Swimming Pool

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| **Tender No** | WDRC-2024-03 |
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| **Contact Information** |  |
| Project Manager | Pero Peric |
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| **Tender Closing Information** |  |
| Date | 02 February 2024 |
| Time | 02:00 PM |
| Tender Lodgement Email: | [tenderlodgement@westdaly.nt.gov.au](mailto:tenderlodgement@westdaly.nt.gov.au) |

## Reference Schedule

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| --- | --- |
| **Council** | West Daly Regional Council |
| **you** | *<Here insert name of contractor>* |
| **Council’s email address** | [info@westdaly.nt.gov.au](mailto:info@westdaly.nt.gov.au) |
| **your service address** | *<Here insert contractor’s address>* |
| **your email address** | *<Here insert contractor’s email address>* |
| **your representative** | *<Here insert name of contractor’s representative>* |
| **commencement date** | *<Here insert commencement date>* |
| **expiry date** | 1 year from the commencement date with an option to extend for 1 year = 1+1 year. |
| **insurances** | Workers compensation insurance as required by statute;  Public liability insurance in the sum of not less than $20M for each occurrence; |

### Agreement

You agree to ensure that the services supplied under this contract are of reasonable quality and fit for purpose. The Council agrees to pay you the contract price, for the services supplied.

### Your General Obligations

You must:

* 1. Supply the services in accordance with the specifications set out in Section D - Specification;
  2. The contractor shall at its own risk carry out the Agreement in accordance with every condition thereof and in so doing shall comply with the provisions of any statute, Regulation and the requirement of any local or other authority with regard thereto.
  3. The contractor will be the person controlling business or undertaking (PCBU) as defined by the Work Health and Safety Act 2011. The PCBU must ensure, as far is reasonably practicable, the health safety of workers and visitors to the worksite. Council will remain the Principal Contractor for the swimming pool and will inspect the worksite to ensure the PCBU is compliant with legislative requirements.
  4. Insurance to be arranged by the contractor and keep current at all times, Public liability & (Worker’s Compensation) covering liability for the death or injury to any person or for the damage to any property arising through or in connection with the performance of the Tender.

1. **Making a Claim for Payment**
   1. You are entitled to payment for the equipment in accordance with the payment scheduleand at the time specified as set out in Annexure 2. Unless expressly stated otherwise in Annexure 2, all amounts are expressed exclusive of GST.
   2. To make a claim for payment you must supply a valid tax invoice to the Council in respect of equipment supplied.
   3. Your invoice must include the following:
      * + The Council purchase order number;
        + The amount of the payment you claim and the basis for calculation;
        + The amount of any GST paid or payable you with respect to the payment;
        + A description (including any additional fittings or attachments) of the equipment;
        + Your address and/or bank account details for payment;

### Responding to a Claim for Payment

* 1. Provided that the Council is reasonably satisfied that the equipment in each case fit the description in the relevant purchase order and are in the quantity specified in the relevant purchase order, your tax invoice will be paid within 14 days of its receipt by the Council.

### Compliance with Laws and Standards

* 1. Throughout the term, in supplying the equipment, you must comply with all laws.
  2. Throughout the term, in supplying the equipment, where any Australian Standard applies to the equipment you must comply with the relevant Australian Standard unless the Council authorises you otherwise in writing.
  3. If after the commencement date any applicable Australian Standard is amended, the Director of Council and Community Services may direct you to comply with such amendment, in which case that direction will be treated as a variation under this contract.

### Assignment

You shall not assign the contract, or assign, mortgage, charge or encumber any of the moneys payable under the contract or any other benefit whatsoever arising under this contract.

### Insurances

* 1. By no later than the commencement date you must take out and maintain for the term the insurance specified in the Reference Schedule.
  2. You must take out insurance with an insurer approved of by Council.
  3. You must produce to Council evidence of the currency of these insurance policies when reasonably required by Council to do so.

### Confidentiality

* 1. Information collected under this contract remains the property of the Council. You or your employees, agents, directors, partners, shareholders or consultants shall not disclose to any person any information or documentation relating to the Council, of the affairs of others which may have come to you or to their knowledge as a result of the contract or performance under this contract. All necessary precautions shall be taken to prevent unauthorised access to such information regarding the nature of progress of the supply of equipment or give any publicity concerning the supply of equipment except with the written consent of the superintendent.
  2. You must not furnish any information or issue any document or other written or printed material concerning the supply of equipment for publication in the media without the prior written approval of the Director. You must refer any enquiries from the media concerning the supply of equipment to the Director.

### Supplier’s Warranties and Obligations

You warrant that:

1. Each contractor shall either hold or a staffer on site hold suitable swimming pool qualification matching with Australian standards.
2. All persons employed by the contractors to work at the facility is required to be inducted and trained in the use of first aid equipment and clothing for the use with Water treatment chemicals and oxygen equipment.
3. The contractor shall ensure that at all times all persons employed or working at the premises, shall fully comply with Working with Children ACT (Orche card of the NT).
4. All personnel employed to act as lifeguards must be dressed in accordance with Royal life Saving Society of Australia guidelines.
5. The contractor will be required to complete risk assessment for the pool operations as defined by Australian standards throughout the year, in conjunction with Council.

### Delivery and Acceptance

* 1. Council may or may not arrange delivery of any required equipment at its own cost.
  2. You are required to make available the required equipment to the place (or places) nominated by the Council to ensure it is ready for transportation.
  3. Transportation of equipment must occur within 30 days of an order being placed by the Council to you, unless otherwise agreed between the two parties
  4. Property and risk in the equipment passes on collection of the equipment.
  5. Receipt of delivery, acceptance or payment shall not prejudice the right of the Council to maintain an action for breach of condition or warranty should the equipment prove to be of inferior quality or in any respect contrary to the requirements of the Contract.

### Warranty Period

* 1. Without limiting any other warranty implied by statute or generally at law:
     + you shall obtain for Council the benefit of any manufacturer’s warranty and provide certificates.

### Default and Termination

* 1. If you fail to supply the equipment specified in a particular purchase order in accordance with the requirements of this contract Council may serve a notice of default on you.
  2. A notice of default served by the Council shall specify the default and nominate a period of time (which shall not be less than 14 days) to rectify the default.
  3. If you fail to rectify the default within the time specified in the default notice the Council may, by further notice in writing to you, cancel that purchase order in whole or in part. In that event the Council shall not be liable to pay the whole or part of the purchase order which has been cancelled, and neither shall the Council be liable for any costs you may have incurred in attempting to fulfil the purchase order.

### Termination on Insolvency

* 1. If you are a natural person and enter into a Part X arrangement or become bankrupt, this contract is automatically terminated.
  2. If you are a corporation and you enter into external administration pursuant to the

*Corporations Act*, this contract is automatically terminated.

### General Provisions

* 1. This contract may only be amended in writing, signed by appropriately authorised representatives of the parties.
  2. The laws of the Northern Territory apply to the interpretation of this contract and the parties submit to the jurisdiction of the courts of the Northern Territory.
  3. Any uncertainty regarding the interpretation of this contract will not be determined unfavourably to the Council merely for the reason that the Council prepared this contract.
  4. Any clause in this contract which appears to be intended to operate after the expiration or termination of this contract does not merge upon that expiration or termination, but continues to operate.

### Interpretation

The Reference Schedule forms part of this contract. A term or phrase listed in the left hand column of the Reference Schedule has the meaning attributed to it in the right hand column of the Reference Schedule.

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| Executed on behalf of **\*\*\*\*\***  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position | In the presence of a qualified witness:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Qualification |
| Executed on behalf of **West Daly Regional Council:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Position | In the presence of a qualified witness:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Print Name  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Qualification |