

### **STANDARD TERMS AND CONDITIONS**

Invoices must quote the Purchase Order and be addressed and forwarded to: The Corporation of the City of Kawartha Lakes, Accounts Payable, Box 9000, Lindsay, Ontario, K9V 5R8.

THIS PURCHASE ORDER IS STRICTLY LIMITED TO ITS TERMS AND CONDITIONS AND ANY COUNTER-OFFERS OR CHANGES OF TERMS PROPOSED BY THE VENDOR ARE HEREBY REJECTED, UNLESS SPECIFICALLY AGREED TO IN WRITING BY THE CORPORATION OF THE CITY OF KAWARTHA LAKES (hereinafter the "City").

The goods and services described in this Purchase Order are subject to the following terms and conditions and the Vendor agrees to be bound by and comply with all such terms and conditions.

#### **TERMS AND CONDITIONS GOODS & SERVICE:**

1. The Purchase Order together with all relevant documents, drawings and specifications referred to herein, shall, when accepted by the Vendor, constitute the contract between the Vendor and the City. By shipping goods as stated on the Purchase Order, the Vendor agrees to the Terms and Conditions and will fulfill its obligations according to the Purchase Order.
2. There shall be no variation, alteration, substitution or amendment of the Purchase Order unless previously approved in writing by the City's Manager of Purchasing or his/her designate.
3. The Vendor will not assign or subcontract the Purchase Order or any part thereof, without the prior written approval of the City, which approval may be withheld by the City in its sole discretion or may be given subject to such terms and conditions as the City may impose.
4. All orders are to be shipped to the location specified on the Purchase Order. FOB City of Kawartha Lakes.
5. The Vendor shall display the complete Purchaser Order number prominently on all packages, invoices, correspondence, customs documentation, bills of lading and packing slips and ensure that packing slips accompany all shipments.
6. Vendors outside Canada shall provide Canada Customs Invoices with completed, acceptable shipment documentation to the Customs broker.
7. Unless otherwise stated, the City shall pay to the Vendor all amounts in Canadian funds net thirty (30) days from invoice receipt or satisfactory delivery of goods or services, whichever is later, unless otherwise noted on the Purchase Order. Term discounts will be calculated from the same date.
8. The price indicated on the Purchase Order is the total cost and includes all fees and charges of any kind, including patent, permit, inspection, royalty and license fees, charges for crating, boxing, cartage and re-stocking and government tax levies, unless otherwise stated on the Purchase Order.
9. All applicable taxes are specified on the Purchase Order. If the Goods and Services Tax applies, the Vendor agrees to invoice in accordance with the *Excise Tax Act* and include a valid business registration number on the invoice.
10. Where a delivery date is stated, delivery by such date is regarded as of the essence of the contract. Failure on the part of the Vendor to complete by the stated delivery date for reasons other than those beyond his control, will entitle the City to any one or combination of the following remedies:
  - (a) Cancel the order without incurring or being liable for any costs, fees, charges or surcharges of any kind whatsoever.
  - (b) Reassign the contract and charge the original Vendor with all incremental costs involved.
11. In the event of strikes, accidents or unexpected events causing stoppage of work, the City reserves the right to suspend the application of the Purchase Order.
12. Delivered goods and services are in accordance with the quantity and the requirements as specified in this Purchase Order and any attached specifications and are subject to inspection and approval, following delivery for a period of not less than sixty (60) days, notwithstanding prior payment. In the event any discrepancy of the order or if the goods are rejected by the City, in its sole discretion, the City is entitled to return such goods at the Vendor's expense and the Vendor shall credit the City accordingly within fifteen (15) days of return of the goods.
13. Notwithstanding delivery of goods, title to the goods remains with the Vendor until the City has inspected and approved the goods or sixty (60) days has passed after delivery without the City rejecting the goods.
14. The Vendor represents, warrants and covenants that the delivered goods do not infringe any patent, copyright, trademark or other intellectual or industrial property right.
15. The Vendor warrants that the shipping and handling of designated products and/or hazardous materials will be made in accordance with the applicable Federal, Provincial and Municipal laws and regulations in force at the time of shipment. Workplace Hazardous Materials Information System, Material Safety Data Sheets, must be provided with the product supplied, as defined under the federal Hazardous Products legislation and provincial WHMIS legislation. Dangerous goods shall be shipped only in compliance with Canadian Transportation of Dangerous Goods (TDG) Regulations, Hazardous Materials Regulations, and all other environmental laws, rules, regulations and procedures, where applicable.
16. The Vendor represents, warrants and covenants that the goods are new, unused, free of defects or deficiencies in design, materials or workmanship, conforming to all manufacturer and City specifications and are fit for their ordinary purposes, unless the City has made a particular purpose known to the Vendor, in which event the goods are fit for that particular purpose as well.

17. The Vendor warrants that all electrical and electronic components and equipment supplied under this Order shall be approved in accordance in the Ontario Electrical Safety Code and must certified so the intended use of the equipment in Canada by certified organization accredited to the *Standards Council of Canada Act*.
18. In the event of any breach of warranty at law or pursuant to the Purchase Order by the Vendor, at any time during the one (1) year warranty period, the Vendor shall, at the City's option, repair or replace the goods with an equivalent or better product at no additional cost to the city within fifteen (15) days of the City's notification to do so.
19. The City makes no guarantee of the value or volume of goods or work to be assigned to the Vendor. The Purchase Order is not an exclusive contract for the provision of the goods and/or services listed. The City may contract with others for the same or similar goods and/or services to those described or may obtain the same or similar internally.
20. The Vendor shall indemnify and save harmless the City, its directors, officers, councilors, employees, contractors and agents from and against all actions, suits, claims, damages, causes of action, demands, penalties, fines, cost and expenses including legal fees or other proceedings of any kind or nature directly or indirectly arising out of any breach or inaccuracy of any representation, warranty or covenant, performance of services or supply of the goods, including but not limited to personal injuries to anyone, breach or alleged breach of intellectual property laws, environmental non-compliance, product liability or property damage.
21. The Vendor shall provide the goods and services in strict compliance with all laws, regulations, codes and standards of Canada and the Province of Ontario, at the sole cost of the Vendor.
22. This Contract is to be construed and governed by the laws of the Province of Ontario and federal laws of Canada applicable therein. The United Nations Conventions on Contracts for the International Sale of Goods and any legislation enacted for the same do not apply.
23. The Vendor on behalf of itself, its directors, officers, employees and agents acknowledges that for the purposes of the Purchase Order, the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* bind it.
24. These Standard Terms and Conditions are meant to supplement but not supersede the terms and conditions of any competitive bid document, contract or agreement. In the event of a conflict or inconsistency, the terms and conditions of the competitive bid document contract or agreement, will govern.
25. Time is of the essence and the Vendor shall deliver the goods and services contemplated by the Purchase Order in strict accordance with the delivery date, quantity and the requirements as specified on this Purchase Order and any attached specifications.

**TERMS AND CONDITONS SPECIFIC TO SERVICE:**

26. For services, the Vendor represents that it has the expertise, experience, facilities, skilled personnel, management and knowledge necessary or required to deliver the services in a competent and professional manner. The Vendor understands that the City is relying upon this representation in issuing the Purchase Order.
27. For the services, the Vendor shall:
  - (a) perform all work in a good and workmanlike manner to the full satisfaction of the City;
  - (b) obtain and maintain full and adequate insurance covering performance of the work, proof of which is to be available to the City upon request;
  - (c) obtain and maintain Worker's Safety Insurance Board coverage and provide both WSIB number and proof of satisfactory standing to the City upon request;
  - (d) comply with all applicable by-laws, polices, procedures, guidelines and rules of the City; and
  - (e) supervise their workers, consultants, agents and subcontractors to ensure they conform to the requirements of the service, specifications and the terms and conditions of the Purchase Order.
28. The Vendor shall indemnify the City for any liability to the Workers' Safety and Insurance Board of Ontario arising from the Purchase Order.
29. Service performed by a Consultant is an independent contractor and neither an agency, partnership nor employer-employee relationship is intended or created by this Purchase Order or Agreement.
30. For services, the Vendor shall provide, upon request of the City from time to time, staff knowledgeable about the delivery of the services for consultation with a representative or representatives of the City. The City shall provide, upon request of the Vendor, a representative or representatives of the City to consult with the Vendor with respect to the services being delivered by the Vendor pursuant to the Purchase Order.
31. The Vendor will maintain proper records and prepare and submit upon request, comprehensive reports respecting the services provided pursuant to the Purchase Order.
32. The Vendor authorizes the City, its employees, representatives and agents to enter at all reasonable times, any premises used by the Vendor in connection with the provision of services pursuant to the Purchase Order, in order to:
  - (a) Observe and evaluate the services provided under the Purchase Order; and
  - (b) Inspect all records, documents and invoices relating to the services provided pursuant to the Purchase Order.
33. The City may terminate the Purchase Order upon thirty (30) days notice in writing, and without any further liability, in the event the City, in its sole discretion, determines that the Service Provider has:
  - (a) Neglected, failed or refused to proceed promptly with the Services contemplated to be provided by the Service Provider pursuant to the Purchase Order;
  - (b) Contravened any of the Service Provider's obligations hereunder; provided however, that the City shall set out particulars of the default of the Service Provider in any such notice of termination and in the event that the Service Provider corrects or remedies the default to the satisfaction of the City within the thirty day notice period, the notice of termination shall be null and void.