

TOWN OF OSOYOOS STANDARD PURCHASE ORDER TERMS & CONDITIONS:

1. Offer And Acceptance:

Where the Town of Osyoos issues a Purchase Order which directly references these Town of Osyoos Standard Purchase Order Terms and Conditions, the following shall apply:

- a) The Supplier, by the execution of this Purchase Order or by the commencement of performance, enters into a binding agreement of sale with the Town of Osyoos (the "Town") for the supply of the goods (including equipment, products, commodities) and/or services as listed on the face of the Purchase Order, which is subject to these *Town of Osyoos Standard Purchase Order Terms and Conditions*;
- b) The Town's placement of the Purchase Order with the Supplier is expressly conditioned upon the Supplier's acceptance of all the terms and conditions contained on, attached to, or expressly incorporated by reference in the Purchase Order; and
- c) Any terms or conditions proposed by the Supplier that are inconsistent with or in addition to the terms and conditions of the Purchase Order are void and of no effect, whether provided in an invoice, confirmation of purchase, or other instrument.

2. Supplier General Obligations:

The Supplier shall:

- a) Ensure that all goods are designed and manufactured so as to meet all specifications, standards and any other requirements of the Purchase Order;
- b) Supply all labour, machinery, goods, tools, supplies, material and other services and things necessary to supply the goods or perform the services in accordance with the Purchase Order;
- c) Obtain, maintain in good standing and comply with the terms of all governmental approvals;
- d) Obtain and remain in compliance with all requisite permits, authorizations and licenses necessary to supply the goods or services;
- e) Perform promptly and safely all of its obligations under the Purchase Order;
- f) Be just and faithful in the performance of its obligations under the Purchase Order, in its dealings with the public and in its dealings with the Town; and
- g) Pay all costs and expenses whatsoever associated with performing the goods / services and its other obligations under the Purchase Order.

3. Schedule:

The Supplier shall deliver the goods / services in accordance with the agreed delivery or completion date. Time is of the essence.

The Supplier must advise the Town immediately of any anticipated shortage in goods or delay in performance of any kind. If delivery of the goods and services is not completed by the agreed delivery or completion date, then the Supplier shall be in default of its obligations under this agreement.

4. Supplier Personnel:

The Supplier represents and warrants to, and covenants with, the Town that the Supplier and the Supplier's employees who perform the services, including the Supplier Personnel, have and shall have the education, training, skill, experience and resources necessary to perform the services in accordance with the

Purchase Order and the Supplier acknowledges and agrees that the Town has entered into this agreement relying on the Supplier's representations, warranties and covenants.

5. Payment:

- a) The Town shall pay the Supplier for the delivery of the goods or performance of the services, in accordance with the Purchase Order. The Supplier shall not be entitled to any compensation whatsoever from the Town, including reimbursement for Supplier costs and expenses, except as set out in the Purchase Order.
- b) Where a "Not to Exceed" or "Fixed Lump Sum Price Fee" amount is specified on the Purchase Order, the Supplier shall not be entitled to any compensation above this amount whatsoever, unless a written amendment to the Purchase Order has been issued by the Town.
- c) Except as expressly provided in the Purchase Order, the Supplier shall be solely responsible for all costs and expenses associated with supplying the goods or performing the services and the Supplier's other obligations, including costs of manufacturing, assembly, storage, labour, supervision, management, overhead, insurance, goods, transportation, travel, fuel, delivery, tools, supplies and materials, office expenses, brokerage costs, import duties and taxes (except GST and PST on the goods and the services as applicable).
- d) Unless as otherwise noted on the Purchase Order, prices shall include delivery and carriage to Osyoos, BC as per the Incoterms 2019 definition "CIP" (Carriage and Insurance Paid To).
- e) The Town shall be responsible for paying any GST and PST payable by the Town as purchaser of the goods or services.
- f) The Supplier may deliver invoices to the Town at such times and for such amounts as may be specified in the Purchase Order. If and to the extent the Town is satisfied that an invoice is properly due and payable in accordance with the Purchase Order and is for goods or services satisfactorily performed by the Supplier, the Town shall approve of the invoice or a portion thereof and the Town shall pay the Supplier the approved portion of the invoice within 30 calendar days after receipt of such invoice by the Town.
- g) The Supplier shall ensure that all invoices under the preceding section show an itemized list of the tasks/products with respect to which payment is claimed, with such specification as may be required by the Town, and the Supplier shall attach to each such invoice a brief report detailing the services completed to date, the services completed during the period covered by the invoice and the outstanding services.

6. Acceptance and Title:

- a) Following delivery to the Town in accordance with the Purchase Order, a Town representative shall inspect the goods or services and if the Town representative is satisfied with such visual inspection that the goods/services meet the requirements of the Purchase Order, the Town representative shall confirm the Town's acceptance of the delivery of the goods/services by issuing a written acceptance certificate (the "Certificate of Acceptance"), which may be in email form.
- b) For clarity, no inspection of the goods/services by a Town representative or any Town employees, contractors, consultants and advisors shall affect the Supplier's obligations

under this agreement, nor shall issuance of the Certificate of Acceptance affect such Supplier obligations, including the Supplier's obligation to ensure the goods/services meet the required specifications, all applicable standards and all other requirements of the Purchase Order.

- c) Title to any goods shall remain vested in the Supplier, and the goods shall remain at the Supplier's risk, until the Town has issued a Certificate of Acceptance.
- d) Upon issue of a Certificate of Acceptance, title to any goods shall automatically vest in the Town and the Supplier shall promptly execute such documents as may be required by the Town to evidence the transfer of ownership and title from the Supplier to the Town.

7. Warranty for Goods or Workmanship:

- a) The Supplier warrants that:
 - i. the goods shall be manufactured in accordance with, and shall meet, the agreed specifications and all applicable standards;
 - ii. the goods shall, on delivery to the Town, be free of all defects and deficiencies;
 - iii. upon issuance of the Certificate of Acceptance, the Town shall have and enjoy quiet possession of the goods and the goods shall be free from any charge or encumbrance in favour of any third party; and
 - iv. the goods/workmanship shall be fit for the Town's proposed use as set out in the Purchase Order.
- b) If during the one year period following the date of issuance of the Certificate of Acceptance (the "Warranty Period"), the Town identifies any defects or deficiencies in the goods or workmanship, the Town may, by its own forces or using contractors, correct and remedy such defect or deficiency and the Supplier shall pay the Town's direct costs of doing so, if the Supplier does not correct and remedy such defect or deficiency within 14 days following written notice from the Town. For clarity, the Town's rights under this section shall not affect any warranty provided by the Supplier under the Purchase Order.

8. Indemnity:

The Supplier shall indemnify, and save harmless, the Town, and its elected and appointed officials, employees, Suppliers and agents, from and against all claims, losses, damages, costs, expenses (including legal fees and disbursements), liabilities, actions and proceedings, suffered, made, incurred, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner caused by, based upon, occasioned by or attributable to, any wilful or negligent act or omission, or other actionable wrong, on the part of the Supplier, its employees, subcontractors or agents, connected with the performance or breach of the terms of this Purchase Order by the Supplier. The Supplier's obligations under this section shall survive the expiry or earlier termination of this Agreement

9. Insurance Coverage:

The Supplier shall obtain and maintain during the currency of this Purchase Order, the following insurance at a minimum:

- a) commercial general liability insurance providing coverage for death, bodily injury, property loss and damage and all other losses arising out of or in connection with the provision of any services in an amount not less than \$2,000,000 per occurrence; and
- b) automotive liability insurance for all motorized vehicles (owned and not owned) used in the provision of the services in an amount of not less than \$1,000,000 per occurrence.

10. WorkSafeBC Compliance:

- a) The Supplier shall at all times in performing its obligations under the Purchase Order, comply with and ensure that any subcontractors comply with, the *Workers Compensation Act* (British Columbia).
- b) The Supplier must, for the duration of the services, be registered as an 'Independent Business' with WorkSafeBC with a WorksafeBC Clearance Letter status showing the Supplier is "Active and in good standing". Additionally, the Supplier shall ensure WorksafeBC coverage is provided for the Supplier, all workers and any shareholders, directors, partners or other individuals employed or engaged in the performance of the services. If the Supplier is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* in British Columbia, the Supplier must apply for and maintain Personal Optional Protection under the *Workers Compensation Act*.

11. Termination for Default:

The Town may terminate all, or any part of, the Purchase Order, by giving written notice of termination to the Supplier, which is effective upon delivery of the notice, if:

- a) the Supplier breaches the terms of the Purchase Order and the Supplier has not cured the breach within five days after notice of the breach is given to the Supplier by the Town; or
- b) the Supplier becomes bankrupt or insolvent, a receiving order is made against the Supplier, an assignment is made for the benefit of its creditors, an order is made or resolution passed for the winding up or dissolution of the Supplier, or the Supplier takes the benefit of any enactment relating to bankrupt or insolvent debtors.

12. Assignment:

This Purchase Order shall not be assigned or subcontracted by the Supplier without the prior written consent of the Town.

13. Freedom of Information & Protection of Privacy:

The Supplier acknowledges that the Town is subject to the *Freedom of Information and Protection of Privacy Act* (the "FIPPA"), that the Town may be legally obligated to disclose to a person parts, or all, of this Purchase Order and any documents legally connected to this Purchase Order, and that the authority of the Town to refuse to disclose a record containing third party confidential information is limited as set out in Section 21 of the FIPPA.

14. Governing Law:

This Purchase Order is construed under and according to the laws of the Province of British Columbia.