

CITY OF NEW WESTMINSTER

STANDARD TERMS AND CONDITIONS OF PURCHASE

1. **Offer and Acceptance**

The vendor, by the execution of the purchase order, or by the commencement of performance, enters into a binding agreement of purchase and sale with the Corporation of the City of New Westminster (the "City") for the supply of goods and/or services as listed on the face of the purchase order, subject to the following Standard Terms and Conditions of Purchase ("Terms and Conditions").

Any terms and conditions proposed by the vendor that are inconsistent with, or in addition to, the terms and conditions of the purchase order issued by the City are void and of no effect, whether provided in an invoice, confirmation of purchase or other communication.

2. **Modification and Revisions**

No revisions or modifications of these Terms and Conditions will be binding on the City unless made in writing and approved by an authorized officer, employee or agent of the City.

3. **Purchase Order Number**

The City's purchase order number will appear on all bills of lading, waybills, invoices, progress billing, packing slips, containers, packages and correspondence submitted by the vendor. Vendor acknowledges that failure to include the purchase order number may result in a delay in payment.

4. **Warranty**

- a. Without limitation to any additional warranties provided by the vendor, whether indicated on the face of the purchase order or otherwise provided, the vendor warrants that:
 - o All goods shall be of merchantable quality and free from defects in workmanship and materials;
 - o All goods shall strictly conform to applicable samples, specifications, and drawings;
 - o All goods shall be free and clear of all liens, charges and encumbrances;
 - o The goods and services comply with the standards set forth by applicable federal, provincial, municipal, and industry regulatory agencies;
 - o The shipping and handling of any hazardous material will be in accordance with all applicable laws and regulations;
 - o Unless a longer warranty period is specified on the face of the purchase order or is otherwise provided, the foregoing warranty shall be valid for one year from the date of acceptance of the goods and services by the City.
- b. If the City discovers that there are any weaknesses, deficiencies, failures, breakdowns, or deterioration in workmanship at any time prior to the expiration of any applicable warranty period, or if the goods and / or services do not conform to the Terms and Conditions of this purchase order, the City may:
 - o Require that the vendor promptly replace, redesign, or correct the defective and non-conforming goods and/or services at no expense to the City; or
 - o Replace or correct the defective goods and/or services, and charge the vendor with all of the expenses that the City incurs.

5. **Delivery**

The vendor must advise the City immediately if there is any shortage or delay of any kind when delivering the goods and/or services.

If delivery of goods and/or services is not completed by the delivery date, the City reserves the right to terminate the purchase order in whole or in part at no expense to the City and to purchase substitute goods and services elsewhere. Cancellation does not limit the City's right to bring action against the Supplier for damages for breach of contract.

6. **F.O.B. Point**

Unless otherwise specified, goods shall be FOB the location stated on the purchase order (freight prepaid).

7. **Inspection**

All goods and services are subject to inspection and approval by the City upon delivery. The City reserves the right to refuse acceptance of any goods and/or services which are not in accordance with our specifications, or not in compliance with the vendor's warranty (expressed or implied). Goods not accepted will be returned to the vendor at the vendor's expense.

The City will not be deemed to have accepted any goods and/or services by virtue of a partial or full payment for them and in no event unless and until the City gives the vendor written confirmation of acceptance following the City's receipt, inspection and approval of the goods and/or services.

8. **Invoices**

Invoices shall be sent to the City of New Westminster, Attn: Accounts Payable Dept., 511 Royal Avenue, New Westminster, BC V3L 1H9.

9. **Payment Terms**

Unless otherwise specified, payment terms are net thirty (30) days from the date the goods and/or services are received and accepted by the City or receipt of a correct invoice, whichever is later.

10. **City Supplied Property**

Title to any items which have been supplied to the vendor by the City, or paid for by the City, in advance of delivery by the vendor of the goods and/or services ordered on the face of the purchase order, shall at all times be vested in the City.

The risk of loss for such items shall remain with the vendor until delivery to the City of such items, in the same conditions as originally received by the vendor. The vendor agrees to be responsible for any and all loss or damage to the City's property while such property is in its possession or control.

Technical information, specifications, drawings, designs, building and floor plans and other documentation relating to the business of activities of the City disclosed by the City to the vendor pursuant to the purchase order will be held in strict confidence by the vendor and will remain the exclusive property of the City. They may not be copied or reproduced without the express written consent of the City.

11. Business License

Whenever the purchase order calls for any services to be performed in New Westminster, the vendor may be required to provide proof of a current City Business License.

12. WorkSafe BC

The vendor will strictly comply with all rules and regulations under the Worker's Compensation Act or any successor legislation and will provide a letter of good standing from WorkSafe BC prior to commencement of Work at the designated site(s). The vendor agrees that it is the "Prime Contractor" for the purposes of the Worker's Compensation Act and Regulations, unless otherwise advised and accepted in writing by an authorized officer, employee or agent of the City.

13. Indemnity

The vendor agrees to indemnify and save harmless the City, its members, officers, employees, assigns, agents and clients from any liability, cost and expense arising directly or indirectly from claims, proceedings and investigations ("losses") advanced by or on behalf of third parties to the extent such losses are caused or contributed to by any breach of this agreement by the vendor or negligence or willful misconduct by the vendor or other party for whom the vendor is responsible.

14. Insurance

Where required, the vendor will, without limiting its obligations or liabilities, and at its own expense, provide and maintain liability insurance in a form acceptable to the City and provide proof of coverage to the City upon request.

15. Default

If the vendor breaches any term or condition of purchase, or becomes insolvent, enters voluntary or involuntary bankruptcy or receivership proceedings, or makes an assignment for the benefit of creditors, the City will have the right to terminate the purchase by written notice to the vendor, whereupon the City will be relieved of all further obligations except the obligation to pay the reasonable value, as determined by the City, of the vendor's prior performance (not exceeding the agreed to purchase total value). The City will be entitled to procure similar goods and/or services from another vendor and the defaulting vendor will be liable to the City for all costs incurred by the City in completing or procuring the completion of performance in excess of the original purchase total value.

16. Intellectual Property

The vendor will defend, indemnify and hold harmless the City, its members, officers, employees, agents, clients, and the public from any expense, cost, loss, claim, damage, judgment or liability for infringement or alleged infringement of third party intellectual property rights including but not limited to; any patent, copyright, industrial design, trademark or trade secret with respect to the goods and/or services and their process of manufacture. The vendor will, at its own expense, defend or assist in the defense of, at the City's option, any action of any alleged infringement.

17. Governing Law

The terms of this agreement shall be governed and construed in accordance with the laws of the Province of British Columbia including but not limited to the Sale of Goods Act (British Columbia)

18. Waiver

Any failure of the City to enforce or require the strict keeping or performance of any of the Terms and Conditions will not constitute a waiver and will not affect or impair the City's right at any time to avail itself of such remedies as the City may have for any breach or breaches of such Terms and Conditions.

19. Time

Time will be of the essence in this agreement.

20. Assignment

The purchase order will not be assigned in whole or in part by the vendor without the prior written consent of the City.