

GENERAL TERMS AND CONDITIONS OF PURCHASE ORDER

ACCEPTANCE OF PURCHASE ORDER

1. The purchase order, duly accepted by Seller, shall constitute the contract between the parties. Any provisions in Seller's acceptance inconsistent with this order shall be deemed to be waived by the City.
2. The purchase order together with these General Terms and Conditions, (collectively, the "Purchase Order") is an offer by the City of Surrey (the "City") to purchase goods and/or services. Acceptance of the Purchase Order shall be deemed given by Seller upon the earlier of acceptance, confirmation, shipment or other performance. The Purchase Order is conditional upon Seller's complete acceptance of the Purchase Order without modifications or additions. Unless specifically agreed to in a writing by an authorized representative of the City, no additional or different term or provision (except additional warranties given by Seller) of any quotation, invoice, acknowledgement or other form supplied by the Seller shall become part of the Purchase Order.
3. Any specifications, or other data attached to any quotation, furnished by Seller shall be deemed to be a part thereof. Quotations furnished by Seller are not intended as and shall not be construed as constituting an offer to the City unless specifically indicated on the front of such document. Any quotation of Seller is subject to, and shall not become binding upon the City until actual receipt by Seller of the City's Purchase Order based on all the General Terms and Conditions stated herein.
4. Contract Supersedes. A City of Surrey formal contract between the City and the Seller shall be deemed to supersede all prior agreements, correspondence, and undertakings, whether written or oral, including these General Terms and Conditions.
5. Taxes. Unless otherwise indicated on the Purchase Order, any federal, provincial sales, use, or similar taxes billed must be separately stated and identified.
6. F.O.B. Point. Unless otherwise mentioned in the Purchase Order, all deliveries will be "Free on Board" (FOB) Destination – Freight Prepaid. Goods not sold F.O.B. Destination – Freight Prepaid must be prepaid and the charges, other than postage must be supported by documents. Goods shipped by parcel post must be insured. C.O.D. charges will not be accepted.

1. DEFINITIONS AND INTERPRETATION

1.1 In these General Terms and Conditions:

- (a) "City" means the City of Surrey;
- (b) "Disbursements" means the actual out-of-pocket costs and expenses which the Seller incurs in providing the Goods and/or Services as identified in the Quotation and reimbursement of which is accepted by the City;
- (c) "Fees" means the price quoted by the Seller and accepted by the City for the provision of the Goods and/or Services, unless otherwise agreed by the parties in writing, except applicable taxes;
- (d) "Goods" means equipment, supplies, commodities and/or equipment;
- (e) "Indemnities" has the meaning described in Section 11.4;
- (f) "Purchase Order" means the numbered document issued by the City to the Seller identifying the nature of the Goods and/or Services to be provided by the Seller under these General Terms and Conditions and the amounts payable therefore and confirming the purchase of such Goods and/or Services;
- (g) "Quotation" means an offer by the Seller to supply to the City of Surrey the Goods and/or Services requested by the City, at specified prices, and within a specified period of time;
- (h) "Request For Quotations" or "RFQ" means a formal or informal invitation to submit pricing for Goods and/or Services;

- (i) "Seller" means the consultant, contractor, supplier, or other provider of Goods and/or Services, its officers, agents, servants, employees, vendors and subvendors who act on behalf of the entity under these General Terms and Conditions with the City; and
- (j) "Services" means the provision of labour only or supply and installation services as described generally in the Purchase Order including anything and everything required to be done for the fulfilment and completion of the Purchase Order.

- 1.2 The Purchase Order may be modified only by express and specific written agreement. In the event of a conflict between the provisions of any documents listed below, then the documents shall govern and take precedence in the following order:
 - (a) the Purchase Order;
 - (b) these General Terms and Conditions; and
 - (c) other terms, if any, that are agreed to by the parties in writing.

2. GOODS AND SERVICES

- 2.1 The Seller covenants and agrees to provide the Goods and/or Services in accordance with the Purchase Order. The Goods and/or Services provided will meet the specifications and scope set out in the Purchase Order.
- 2.2 The City may from time to time, by written notice to the Seller, make changes in the Goods and/or Services. The Fees will be increased or decreased by written agreement of the City and the Seller

according to the Fees set out in the Purchase Order.

Any specifications, drawings, notes, instructions, engineering notices, or technical data expressly referred to in the Purchase Order shall be deemed to be incorporated herein by reference as if fully set forth herein.

- 2.3 The Seller will, if required in writing by the City, provide additional goods and/or services. The terms of the Purchase Order will apply to any additional goods and/or services, and the fees for additional goods and/or services will generally correspond to the fees set out in the Quotation. Seller will not provide any additional goods and/or services in excess of the goods and/or services requested in writing by the City.
- 2.4 The Seller will provide Goods and perform the Services with that degree of care, skill and diligence normally provided by a qualified and experienced practitioner performing services similar to the Services, and on the understanding that the City is relying on the Seller's experience and expertise. The Seller represents that it has the expertise, qualifications, resources, and relevant experience to supply the Goods and/or Services.
- 2.5 The Seller will deliver the Goods and completion of the Services free and clear of all liens and encumbrances in the manner and to the destination stipulated on the face of the Purchase Order. In the event of the Seller's failure to meet this condition, the Seller will, on written notice from the City, forthwith return all monies paid by the City on account of this Purchase Order and, in addition, the City may by written notice terminate the Purchase Order without liability, and in such event, in addition to the above, the Seller will be liable for any and all expenses or losses incurred by the City resulting from such failure.

3. TERM

- 3.1 The Seller will provide the Goods and/or Services upon receipt of the Purchase Order. The Seller will proceed with providing the Goods and/or Services diligently, will provide the Goods and/or Services generally in accordance with the time schedule as required by the Purchase Order and will achieve substantial completion of the Goods and/or Services subject to the provisions of the Purchase Order and for adjustments to the time schedule (the "Term").
- 3.2 The parties may extend the Term by mutual agreement. If the Term is extended, the provisions of the Purchase Order will remain in force except where amended in writing by the parties.

4. TIME

- 4.1 The City's work schedules are based upon delivery by Seller to the City by the date specified on the face of the Purchase Order. Time is of the essence with respect to the Purchase Order, and if delivery of items or rendering of services is not completed by the time promised, the City shall have the right to

terminate the Purchase Order by notice, effective when received by the Seller, as to Goods not yet shipped and/or Services not yet rendered and to purchase substitute goods or services from other sources and charge the Seller with any loss incurred thereby.

- 4.2 If Seller determines for any reason that Seller cannot meet the delivery date on the face of the Purchase Order, Seller shall promptly notify the City in writing of such delay and the expected duration of the same.

5. FEES

- 5.1 The price(s) stipulated on the face of the Purchase Order are those amounts agreed for the provision of the Goods and/or Services stipulated. No adjustment(s) to these agreed amounts will be accepted by the City unless prior approval has been given by the Purchasing Manager, or designate to the Seller prior to receipt of the Goods or performance of the Services. Payment by the City of the Fees will be full payment for the Goods and/or Services and the Seller will not be entitled to receive any additional payment from the City.
- 5.2 For greater certainty, costs of general management, non-technical supporting services and general overhead are deemed to be covered by the Fees and will not be subject to additional payment by the City. The Fees shall also include without limitation all costs of boxing, packing, crating, and loading and unloading of the Goods at the prescribed destination.

6. PAYMENT

- 6.1 Subject to any contrary provisions set out in a Quotation, the Seller shall invoice the City at the end of each month requesting payment of the portion of the Fees and Disbursements relating to the Goods and/or Services provided or at fulfillment of the Goods and/or Services (whichever is earlier) and including the following information: Invoices must include the Seller's name, address and telephone number, the Seller's invoice number, the City's Purchase Order number (line item detail on invoices must reflect the detail provided in the Purchase Order), the names, charge-out rates and number of hours worked in the previous month of all employees of the Seller and any sub-contractors that have performed Services during the previous month; the percentage of Services completed and Goods delivered at the end of the previous month; the total budget for the Goods and Services and the amount of the budget for the Goods and/or Services and the amount of the budget expended to the date of the invoice; taxes (if any); and grand total of the invoice.
- 6.2 If the City reasonably determines that any portion of an Invoice is not payable, then the City will so advise the Seller.
- 6.3 The City may hold back from payments 10% of the amount the City determines is payable to the Seller until such time as the Seller provides its final report to the City, if applicable.

6.4 The City will pay the invoice, in the amount as the City determines is correct less any deductions for setoffs, withholdings or holdbacks permitted by the Purchase Order, within 30 days of the receipt of the invoice, unless the parties have agreed in writing to other payment terms. The payment by the City of any invoice will not bind the City with respect to any subsequent payment or final payment and will not mean that the City has accepted the Goods and/or Services that are not in accordance with the requirements of the Purchase Order, or that the Seller is in any manner released from its obligation to comply with the Purchase Order.

6.5 If the Seller offers the City a cash discount for early payment, then the City may, at the City's sole discretion, pay the portion of an invoice which the City determines is payable at any time after receipt of the Invoice.

6.6 In an effort to support sustainability, reduce risk and improve customer service, the City has introduced an electronic fund transfer (EFT) option for Sellers. Electing to participate in this program will allow Sellers to receive their payments directly into their bank accounts, reducing risk of fraud and improving the timeliness of their payment receipt.

6.7 If you are a Seller and would like to receive your payments electronically, fax your request on company letterhead to 604-591-4488. You may contact Accounts Payable at 604-592-7010 (Accounts Payable General Inquiries) for more information.

6.8 Invoicing Submission Methods:

Submitting Invoice(s) via email

Email to: surreyinvoices@surrey.ca

- Submit in PDF format only (2Mb Maximum).
- One invoice per single email.
- Submit only invoices to this e-mail address.
- A confirmation e-mail will be sent upon receipt by the Accounts Payable mailbox. It's the responsibility of the Seller to resubmit any emails that prompt a non-delivery notice.
- Send any supporting documents to your City of Surrey business contact.
- Don't send duplicate hard copy or soft copy invoices in any manner. Should a need arise to submit an invoice copy, ensure it is clearly labelled COPY.
- Incomplete invoices will be returned.
- Include contact name and email address.

Submitting Invoice(s) via mail

Mail hard copy invoices to:

Surrey City Hall – Accounts Payable
13450 – 104th Avenue
Surrey, B.C., Canada, V3T 1V8

- Submit only invoices to this address.
- Submit any supporting documents to your City of Surrey business contact.
- Don't send duplicate hard copy or soft-copy invoices in any manner. Should a need arise

to submit an invoice copy, ensure it is clearly labeled COPY.

- Incomplete invoices will be returned.

6.9 If the Seller is a non-resident of Canada and does not provide to the City a waiver of regulation letter, the City will withhold and remit to the appropriate governmental authority the greater of:

- (a) 15% of each payment due to the Seller; or
- (b) the amount required under applicable tax legislation.

7. USE OF WORK PRODUCT

7.1 The Seller hereby sells, assigns and transfers to the City the right, title and interest required for the City to use and receive the benefit of all the reports, drawings, plans, designs, models, specifications, computer software, concepts, products, designs or processes or other such work product produced by or resulting from the Services rendered by the Seller. This section does not give the City the right to sell any such work product to any third party and the City may sell the work product only with the prior approval of the Seller. The Seller may retain copies of the work product.

8. PERSONNEL AND SUBCONTRACTORS

8.1 The Seller will provide professional personnel who have the qualifications, experience and capabilities to provide the Goods and/or perform the Services.

8.2 The Seller will provide the Goods and/or Services using the professional personnel and sub-contractors as may be listed in the Quotation, and identified by the Seller, and the Seller will not remove any such listed personnel or sub-contractors from the Purchase Order without the prior written approval of the City.

8.3 If the City reasonably objects to the performance, qualifications, experience or suitability of any of the Seller's personnel or sub-contractors then the Seller will, on written request from the City, replace such personnel or sub-contractors.

8.4 Except as provided for in Section 8.2, the Seller will not engage any personnel or sub-contractors or sub-contract or assign its obligations under these General Terms and Conditions, in whole or in part, without the prior written approval of the City.

8.5 The Seller will preserve and protect the rights of the City with respect to any Services performed under sub-contract and incorporate the General Terms and Conditions of the Purchase Order into all sub-contracts as necessary to preserve the rights of the City under the Purchase Order. The Seller will be as fully responsible to the City for acts and omissions of sub-contractors and of persons directly or indirectly employed by them as for acts and omissions of sub-contractors and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Contractor.

9. LIMITED AUTHORITY

9.1 The Seller is not and the Purchase Order does not render the Seller an agent or employee of the City, and without limiting the above, the Seller does not have authority to enter into any contract or reach any agreement on behalf of the City, except for the limited purposes as may be expressly set out in the Purchase Order, or as necessary in order to provide the Goods and/or Services. The Seller will make such lack of authority clear to all persons with whom the Seller deals in the course of providing the Goods and/or Services. Every vehicle used by the Seller in the course of providing the Goods and/or Services shall identify the Seller by name and telephone number.

9.2 The Seller is an independent entity. The Purchase Order does not create the relationship of employer and employee, a partnership, or a joint venture. The City will not control or direct the details, means or process by which the Seller performs the Goods and/or Services. The Seller will determine the number of days and hours of work required to properly and completely provide the Goods and/or perform the Services. The Seller is primarily responsible for performance of the Services and may not delegate or assign any Services to any other person except as provided for in section 8.4. The Seller will be solely liable for the wages, fringe benefits, work schedules and work conditions of any partners, employees or sub-contractors.

10. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

10.1 Except as provided for by law or otherwise by the Purchase Order, the Seller will keep strictly confidential any information supplied to, obtained by, or which comes to the knowledge of the Seller as a result of the performance of the Goods and/or Services and the Purchase Order, and will not, without the prior express written consent of the City, publish, release, disclose or permit to be disclosed any such information to any person or corporation, either before, during or after termination of the Purchase Order, except as reasonably required to complete the Goods and/or Services.

10.2 The Seller acknowledges that the City is subject to the *Freedom of Information and Protection of Privacy Act* of British Columbia and agrees to any disclosure of information by the City required by law.

10.3 The Seller agrees to return to the City all of the City's property at the completion of the Goods and/or Services, including any and all copies or originals of reports provided by the City.

11. WARRANTIES

11.1 The Seller warrants that the Goods supplied by the Seller shall be free from defects in design, materials, workmanship and title, shall conform in all respects to the terms of the Purchase Order, shall be fit and suitable and perform satisfactorily for the purposes and under the conditions made known to the Seller by the City or which were reasonably

inferable. The Goods shall be at least equal to the higher of national standards or codes (such as, by way of illustration, CSA or ASTM), or standards and codes customarily applicable at the place where the City will use the Goods. The Goods shall be of the best quality, if no quality is specified. This general warranty is independent of and without prejudice to any specific warranty or service guarantee offered by the Seller or third party manufacturer or supplier of the Goods in connection with the purpose for which the Goods were purchased. The Seller shall assign to the City any warranty or service guarantee offered by a third party manufacturer or supplier of the Goods. Notwithstanding this assignment, if at any time up to one year from the date of delivery or installation (if applicable) the City determines the Goods or any part do not conform to these warranties, the City shall notify the Seller within a reasonable time after such discovery, and the Seller shall then promptly correct such nonconformity at the Seller's expense. Goods used to correct a non-conformity shall be similarly warranted for one year from the date of installation. The Seller's liability shall extend to all liabilities, losses, damages, claims and expenses incurred by the City caused by any breach of any of the above warranties.

11.2 Goods supplied by the City and installed by the Seller that require Services during a product warranty period shall be serviced by the Seller at the City's expense.

11.3 If any Goods are installed by the Contractor, and subsequently recalled by the manufacturer of the Goods, Service costs associated with the replacement of the recalled Goods will be at the Seller's expense. The Seller shall notify the City if a recall notice is issued by the Goods manufacturer.

11.4 The Seller warrants and guarantees that all Goods and/or Services delivered under the Purchase Order do not infringe any valid patent, copyright or trademark, foreign or domestic, owned or controlled by any other corporation, firm or person, and agrees to indemnify and save harmless the City and all of its elected and appointed officials, officers, employees, servants, representatives and agents (collectively the "Indemnitees"), from and against any and all claims, demands, causes of action, suits, losses, damages and costs, liabilities, expenses and judgments (including all actual legal costs) by reason of any claim, action or litigation arising out of any alleged or actual infringement of any patent, copyright or trademark, foreign or domestic, relating to the Goods and/or Services under the Purchase Order.

12. INSURANCE AND DAMAGES

12.1 The Seller will indemnify and save harmless the Indemnitees from and against all claims, demands, causes of action, suits, losses, damages and costs, liabilities, expenses and judgments (including all actual legal costs) for damage to or destruction or loss of property, including loss of use, and injury to or death of any person or persons which any of the Indemnitees incur, suffer or are put to arising out of or in connection with any failure, breach or non-performance by the Seller of any obligation of the Purchase Order, or any wrongful or negligent

act or omission of the Seller or any employee or agent of the Seller.

- 12.2 The indemnities described in Sections 11.4, 12.1 and 18.4 will survive the termination or completion of the Purchase Order and, notwithstanding such termination or completion, will continue in full force and effect for the benefit of the Indemnitees.
- 12.3 In the event that the Purchase Order requires or contemplates performance of Services to be done by Seller's employees, or persons under contract to the Seller, on City of Surrey property, the Seller will, without limiting its obligations or liabilities and at its own expense, prior to the commencement of such work, to obtain and maintain throughout the performance of such work, insurance of the types, amounts and coverages as are set forth in the City's sample insurance certificate (Standard Certificate of Insurance or Standard Consultants Certificate of Insurance) available from the City's Website at www.surrey.ca (the "City Website") and from insurers licensed to conduct business in Canada. City of Surrey shall be named as additional insured.
- 12.4 The Seller will provide the City with evidence of the required insurance prior to the commencement of the Services. Such evidence will be in the form of a completed certificate of insurance acceptable to the City. The Seller will, on request from the City, provide certified copies of all of the Seller's insurance policies providing coverage relating to the Services, including without limitation any professional liability insurance policies. All required insurance will be endorsed to provide the City with thirty (30) days advance written notice of cancellation or material change restricting coverage. To the extent the City has an insurable interest, the builder's risk policy will have the City as first loss payee. The Seller will be responsible for deductible amounts under the insurance policies. All of the Seller's insurance policies will be primary and not require the sharing of any loss by the City or any insurer of the City.
- 12.5 The Seller acknowledges that any requirement by the City as to the amount of coverage under any policy of insurance will not constitute a representation by the City that the amount required is adequate and the Seller acknowledges and agrees that the Seller is solely responsible for obtaining and maintaining policies of insurance in adequate amounts. The insurance policy coverage limits shall not be construed as relieving the Seller from responsibility for any amounts which may exceed these limits, for which the Seller may be legally liable.
- 12.6 The Seller shall place and maintain, or cause any of its sub-contractors to place and maintain, such other insurance or amendments to the foregoing policies as the City may reasonably direct.
- 12.7 The Seller hereby waives all rights of recourse against the City for loss or damage to the Seller's property.

Attachment 1 - [Standard Certificate of Insurance](#)

Attachment 2 - [Consultants Certificate of Insurance](#)

13. CITY RESPONSIBILITIES

- 13.1 The City will, in co-operation with the Seller, make efforts to make available to the Seller information, surveys, and reports which the City has in its files and records that relate to the Goods and/or Services. The Seller will review any such material upon which the Seller intends to rely and take reasonable steps to determine if that information is complete or accurate. The Seller will assume all risks that the information is complete and accurate and the Seller will advise the City in writing if in the Seller's judgment the information is deficient or unreliable and undertake such new surveys and investigations as are necessary.
- 13.2 The City will in a timely manner make all decisions required under the Purchase Order, examine documents submitted by the Seller and respond to all requests for approval made by the Seller pursuant to the Purchase Order.
- 13.3 If the City observes or otherwise becomes aware of any fault or defect in the delivery of Goods or provision of Services, it may notify the Seller, but nothing in the Purchase Order will be interpreted as giving the City the obligation to inspect the Goods or review the Seller's performance with regards to delivering Goods or the performance of the Services.

14. DEFICIENCIES

- 14.1 The City shall have a reasonable time to inspect and to accept the Goods and/or Services. The City may reject any Goods and/or Services not in accordance with the Purchase Order, whether due to damage resulting from improper packing, loading, unloading or otherwise. The City shall notify the Seller of rejection of the Goods whereupon the Goods will be held subject to the disposition by the Seller. Any costs or expenses incurred by the City as a result of the rejection of the Goods or Services are, immediately upon written demand by the City, payable by the Seller, and may be set off against any payments owing by the City to the Seller.
- 14.2 The City may hold back from payments otherwise due to the Seller up to 150% of a reasonable estimate, as determined by the City, on account of deficient or defective Goods and/or Services. This holdback may be held, without interest, until replacement Goods are received or such deficiency or defect is remedied.

15. DEFAULT AND TERMINATION

- 15.1 In the event the Seller does not ship the Goods by the shipping date specified in the Purchase Order, or does not deliver the Goods by the delivery date specified in the Purchase Order, then:
- (a) the City reserves the right to terminate the Purchase Order, in whole or in part, and in the event of such termination no payment will be owing by the City on account of the Purchase Order and the Seller will be liable for any and all expenses or loss resulting from such failure or delay and will return all monies paid by the City; or

- (b) if the City does not terminate the Purchase Order for late delivery or performance, the City may deduct and setoff from any payments owing to the Seller all additional costs the City reasonably incurs on account of the late delivery or performance.
- 15.2 The City may by written notice at any time cancel the Purchase Order with respect to Goods which, as of the date of cancellation, have not been shipped.
- 15.3 The City may at any time and for any reason by written notice to the Seller terminate the Purchase Order before the completion of all Goods and/or Services, such notice to be determined by the City at its sole discretion. Upon receipt of such notice, the Seller will perform no further Goods and/or Services other than the work which is reasonably required to complete the Goods and/or Services. Despite any other provision of these General Terms and Conditions, if the City terminates the Purchase Order before the completion of all the Goods and/or Services, the City will pay to the Seller all amounts owing under the Purchase Order for Goods and/or Services provided by the Seller up to and including the date of termination, plus reasonable termination costs in the amount as determined by the City in its sole discretion. Upon payment of such amounts no other or additional payment will be owed by the City to the Seller, and, for certainty, no amount will be owing on account of lost profits relating to the portion of the Goods and/or Services not performed or other profit opportunities.
- 15.4 The City may terminate the Purchase Order for cause as follows:
- (a) If the Seller is adjudged bankrupt, or makes a general assignment for the benefit of creditors because of its insolvency, or if a receiver is appointed because of its insolvency, the City may, without prejudice to any other right or remedy the City may have, terminate the Purchase Order by giving the Seller or receiver or trustee in bankruptcy written notice; or
- (b) If the Seller is in breach of any term or condition of the Purchase Order, and such breach is not remedied to the reasonable satisfaction of the City within 5 days after delivery of written notice from the City to the Seller, then the City may, without prejudice to any other right or remedy the City may have, terminate the Purchase Order by giving the Seller further written notice.
- 15.5 If the City terminates the Purchase Order as provided by Section 15.4, then the City may:
- (a) enter into contracts, as it in its sole discretion sees fit, with other persons to complete the Goods and/or Services;
- (b) withhold payment of any amount owing to the Seller under this Agreement for the performance of the Goods and/or Services;
- (c) set-off the total cost of completing the Goods and/or Services incurred by the City against any amounts owing to the Seller under the Purchase Order, and at the completion of the Goods and/or Services pay to the Seller any balance remaining; and
- (d) if the total cost to complete the Goods and/or Services exceeds the amount owing to the Seller, charge the Seller the balance, which amount the Seller will forthwith pay.
- 15.6 The City will not accept nor be responsible for any restocking charges for any Goods shipped to the City and then, for whatever reason, returned to the Seller pursuant to the Purchase Order. The Seller is to bear all costs including shipping and handling of returned Goods.
- 16. CURING DEFAULTS**
- 16.1 If the Seller is in default of any of its obligations under the Purchase Order, then the City may without terminating the Purchase Order, upon 5 days written notice to the Seller, remedy the default and set-off all costs and expenses of such remedy against any amounts owing to the Seller. Nothing in the General Terms and Conditions will be interpreted or construed to mean that the City has any duty or obligation to remedy any default of the Seller.
- 17. DISPUTE RESOLUTION**
- 17.1 The parties will make reasonable efforts to resolve any dispute, claim, or controversy arising out of this Agreement or related to the Purchase Order ("**Dispute**") using the dispute resolution procedures set out in this section.
- 17.2 Negotiation: The parties will make reasonable efforts to resolve any Dispute by amicable negotiations and will provide frank, candid and timely disclosure of all relevant facts, information and documents to facilitate negotiations.
- 17.3 Mediation: If all or any portion of a Dispute cannot be resolved by good faith negotiations within 30 days, either party may by notice to the other party refer the matter to mediation. Within 7 days of delivery of the notice, the parties will mutually appoint a mediator. If the parties fail to agree on the appointment of the mediator, then either party may apply to the British Columbia International Commercial Arbitration Centre for appointment of a mediator. The parties will continue to negotiate in good faith to resolve the Dispute with the assistance of the mediator. The place of mediation will be Surrey, British Columbia. Each party will equally bear the costs of the mediator and other out-of-pocket costs, and each party will bear its own costs of participating in the mediation.
- 17.4 Litigation: If within 90 days of the request for mediation the Dispute is not settled, or if the mediator advises that there is no reasonable possibility of the parties reaching a negotiated resolution, then either party may without further notice commence litigation.
- 18. WCB AND OCCUPATIONAL HEALTH AND SAFETY**
- 18.1 The Seller agrees that it shall, at its own expense, procure and carry, or cause to be procured, carried

- and paid for, full Workers' Compensation Board coverage for itself and all workers, employees, servants and others engaged in the supply of the Goods and/or Services. The Seller agrees that the City has the unfettered right to set off the amount of the unpaid premiums and assessments for the Workers' Compensation Board coverage against any monies owing by the City to the Seller. The City will have the right to withhold payment under this Purchase Order until the Workers' Compensation Board premiums, assessments or penalties in respect of the Goods and/or Services have been paid in full.
- 18.2 The Seller will provide the City with the Seller's Workers' Compensation Board registration number and a letter from the Worker's Compensation Board confirming that the Seller is registered in good standing with the Workers' Compensation Board and that all assessments have been paid to the date thereof prior to the City having any obligations to pay monies under this Purchase Order.
- 18.3 The Seller agrees that it is the prime contractor for the Goods and/or Services for the purposes of the *Workers Compensation Act*. The Seller will have a safety program in place that meets the requirements of the Workers' Compensation Board Occupational Health and Safety Regulation and the *Workers Compensation Act*. As prime contractor, the Seller will be responsible for appointing a qualified coordinator for insuring the health and safety activities for the location of the Goods and/or Services. That person will be the contact person and telephone number provided by the Seller in writing to the City and so identified in the Purchase Order, and the Seller will advise the City immediately in writing if the name or contact number of the qualified coordinator changes.
- 18.4 Without limiting the generality of any other indemnities granted by the Seller in the Purchase Order, the Seller will indemnify and save harmless the Indemnitees from and against all claims, demands, causes of action, suits, losses, damages, costs, liabilities, expenses, judgments, penalties and proceedings (including all actual legal costs) which any of the Indemnitees incur, suffer or are put to arising out of or in any way related to unpaid Workers' Compensation Board assessments owing from any person or corporation engaged in the performance of the Purchase Order or arising out of or in any way related to the failure to observe safety rules, regulations and practices of the Workers' Compensation Board, including penalties levied by the Workers' Compensation Board.
- 18.5 The Seller will ensure compliance with and conform to all health and safety laws, by-laws or regulations of the Province of British Columbia, including without limitation the *Workers Compensation Act* and Regulations pursuant thereto, and Attachment 3 – City's Contractor Health & Safety Expectations.
- 18.6 The City may, on twenty-four (24) hours written notice to the Seller, install devices or rectify any conditions creating an immediate hazard existing that would be likely to result in injury to any person. However, in no case will the City be responsible for ascertaining or discovering, through inspections or review of the operations of the Seller or otherwise, any deficiency or immediate hazard.
- 18.7 The Seller understands and undertakes to comply with all the Workers' Compensation Board Occupational Health and Safety Regulations for hazardous materials and substances, and in particular with the "Workplace Hazardous Materials Information System (WHMIS)" Regulations. All "Material Safety Data Sheets (MSDS)" will be shipped along with the Goods and any future MSDS updates will be forwarded.
- Refer to Attachment #3 – Contractor Health & Safety Expectations for further information
- 19. BUSINESS LICENSE**
- 19.1 Where the Purchase Order contracts for the provision of labour only or supply and installation Goods and/or Services the Seller will obtain and maintain throughout the term of the Purchase Order a valid City of Surrey business license.
- 20. GENERAL PROVISIONS FOR GOODS**
- 20.1 Documentation for shipments of Goods from outside Canada shall be provided by a Seller by airmail and shall include all documents as required by law or customary practice. All packages shall be marked as follows:
- "Upon arrival, please contact customs broker:
- Livingston International Inc.
1140 West Pender Street, Suite 500
Vancouver, British Columbia
Canada V6E 4H5
Telephone: +1-604-685-3555
Toll Free Telephone: 1-800-663-0301
Fax: +1-604-687-2189
Email: cst19@livingstonintl.com"
- 20.2 If the Purchase Order pertains to the fabrication, assembly or other processing of the Goods, representatives of the City shall be permitted free access at all reasonable times for the purpose of inspection, testing or obtaining information as to the progress of the fabrication, assembly or processing.
- 20.3 The City may require that shop drawings be submitted by the Seller for review prior to the delivery of the Goods. The City may require that a qualified registered professional engineer stamp and approve a shop drawing prior to submission. Any review of shop drawings by the City will not relieve the Seller from its obligation to deliver Goods in full compliance with all requirements of the Purchase Order.
- 21. COMPLIANCE**
- 21.1 The Seller will provide the Goods and/or Services in full compliance with all applicable laws, building codes and regulations.

- 21.2 The Seller will, as a qualified and experienced practitioner, interpret applicable codes, laws and regulations applicable to the performance of the Goods and/or Services. If an authority having jurisdiction imposes an interpretation which the Seller could not reasonably have verified or foreseen prior to accepting the Purchase Order, then the City will pay the additional costs, if any, of making alterations so as to conform to the required interpretation.

22. JURISDICTION OF COUNCIL AND NON-APPROPRIATION

- 22.1 Nothing in the General Terms and Conditions limits or abrogates, or will be deemed to limit or abrogate, the jurisdiction of the Council of the City in the exercise of its powers, rights or obligations under any public or private statute, regulation or by-law or other enactment.

- 22.2 The Seller recognizes and agrees that the City cannot make financial commitments beyond the City's current fiscal year. The City will annually make bonafide requests for appropriation of sufficient funds to cover all payments covered by the Purchase Order. If City Council does not appropriate funds, or appropriates insufficient funds, the City will notify the Seller of its intention to terminate or reduce the services so affected within 30 days after the non-appropriation becomes final. Such termination shall take effect 30 days from the date of notification, shall not constitute an event of default and shall relieve the City, its officers and employees, from any responsibility or liability for the payment of any further amounts under the Purchase Order.

23. WAIVER

- 23.1 Any failure of the City at any time or from time to time to enforce or require the strict keeping or performance of any of the terms and conditions contained in the Purchase Order shall not constitute a waiver of the terms and conditions and shall not affect or impair the terms or conditions in any way or the City's right at any time to avail itself of any remedies as the City may have for any breach of the terms and conditions.

24. APPLICABLE LAW

- 24.1 The Purchase Order shall be governed by and construed in accordance with the laws of the Province of British Columbia. The City and the Seller accept the jurisdiction of the courts of British Columbia and agree that any action under the Purchase Order shall be brought in such courts.

25. NOTICES

- 25.1 Any notice, report or other document that either party may be required or may wish to give to the other must be in writing, unless otherwise expressly provided for, and will be deemed to be validly given to and received by the addressee:
- (a) by hand, or mail delivery, within five calendar days after posting.

Surrey City Hall
Finance & Technology Dept.

Purchasing Section
Reception Counter – 5th Floor West
13450 – 104th Avenue
Surrey, British Columbia, Canada, V3T 1V8

Attention: Purchasing Manager

- (b) by facsimile, on transmission:
+1-604-599-0956; or
- (c) by email:
purchasing@surrey.ca

- 25.2 The addresses for delivery will be as shown in the Quotation. In addition, the City may give notice to the Seller by email at the Seller's email address as shown in the Quotation, which email will be deemed to be validly given and received by the Seller on transmission. The Seller may not give notice to the City by email.

26. MERGER AND SURVIVAL

- 26.1 The representations, agreements, covenants and obligations set out in the Purchase Order shall survive the delivery of the Goods and performance of the Services and payment of the Fees and Disbursements.

27. ENTIRE AGREEMENT

- 27.1 The Purchase Order including the Schedules, and any other documents expressly included by reference in the Purchase Order as being part of the Purchase Order, contains the entire agreement of the parties regarding the provision of the Goods and/or Services and no understandings or agreements, oral or otherwise, exist between the parties except as expressly set out in the Purchase Order. The Purchase Order supersedes and cancels all previous agreements between the parties relating to the provision of the Goods and/or Services.

28. SELLER TERMS REJECTED

- 28.1 In the event that the Seller issues an invoice, packing slip, sales receipt, or any like document to the City, the City accepts the document on the express condition that any terms and conditions in it which constitute terms and conditions which are in addition to or which establish conflicting terms and conditions to these General Terms and Conditions are expressly rejected by the City.

29. SURVIVAL OF OBLIGATIONS

- 29.1 All of the Seller's obligations to perform the Goods and/or Services in a professional and proper manner will survive the termination or completion of the Purchase Order.

30. CUMULATIVE REMEDIES

- 30.1 The City's remedies under these General Terms and Conditions are cumulative and in addition to any right or remedy which may be available to the City at law or in equity.

31. UNENFORCEABILITY

- 31.1 If any provision of these General Terms and Conditions is invalid or unenforceable, it will be severed from the Purchase Order and will not affect the enforceability or validity of the remaining provisions of the General Terms and Conditions.

32. FUEL EMISSIONS DATA

- 32.1 As of January 1, 2013, the City requires contractors to report the quantity of fuel used to operate vehicles, equipment and machinery as part of the delivery of operating (non-capital) services defined as "Traditional Services" in the Carbon Neutral Workbook.v2 as part of the BC Climate Action Charter. Typical data to be submitted would include the following for each calendar year:

- Type of vehicle/vehicle class used to deliver the contracted services;
- Type of fuel consumed by each vehicle class; and
- Litres of fossil fuels consumed in relation to the service delivered under the contract.

- 32.2 Fuel consumption associated with the provision of these services must be provided to the City within thirty (30) days of the end of the calendar year or the termination of the contract, whichever is earlier. An excel-based Fuel Use Reporting template will be provided by the City. The most current version of the workbook is located on the Climate Action Toolkit website for your reference at:
<http://toolkit.bc.ca/carbon-neutral-government>

33. NON ROAD DIESEL ENGINE EMISSION REGULATION

- 33.1 If you **own, operate, or hire** diesel powered equipment, Metro Vancouver's Non-Road Diesel Engine Emissions Regulation Bylaw No 1161, 2012 (the Bylaw) may impact your business. The Bylaw came into force on January 1, 2012 and requires owners or operators to register and label Tier 0 and Tier 1 non-road diesel engines that are 25 horsepower (19kW) or greater in order to operate within Metro Vancouver. Tier 0 engines must have **90 days** of registration purchased by **December 31, 2014** or the engine(s) will be **prohibited from ever operating** in Metro Vancouver. To be fully registered an owner/operator must:
- provide required information (machine/engine/company details),
 - pay fees, and
 - label machines with Metro Vancouver issued registration number.

Other important information:

- Non-road Tier 1 engines must be registered and pay fees to operate, and
- Failure to comply with the Bylaw may result in fines.

- 33.2 The City may, at its discretion, give preference to equipment that meets higher emission standards.

- 33.3 Contact Metro Vancouver staff at 604-451-6655, visit www.metrovancouver.org/nonroaddiesel or email nonroaddiesel@metrovancouver.org for more information about the Bylaw, the rebate program, and for assistance with the registration process.

34. ENUREMENT

- 34.1 The Purchase Order shall enure to the benefit of and be binding upon the respective successors and permitted assigns of the City and the Seller.

- END OF PAGE -

Updated: 12/15/15

ATTACHMENT 3

CONTRACTOR HEALTH & SAFETY EXPECTATIONS

RESPONSIBILITY OF CONTRACTOR(S)

The City of Surrey strives to maintain a safe work environment for employees and contractors and insists upon the enforcement of safe practices and procedures in all premises and in all work activities. It is essential that all contractors and their employees and sub-contractor(s) perform in the same manner. It is every employers and contractors responsibility to ensure that staff and public are protected from workplace hazards.

As a contractor to the City of Surrey, you are expected to conform to the requirements of the Workers' Compensation Act, the WCB Occupational Health and Safety Regulation and to all federal, provincial and local laws and regulations. The City of Surrey Building Owner, Project Manager, and the Manager, Occupational Health & Safety or designate have the authority to order an unsafe act to cease or to have an unsafe piece of equipment removed from the premises or, in extreme situations, to shut down a job entirely. Any City of Surrey Employee that observes a safety infraction by a contractor performing work for the City of Surrey should bring it to the attention of a manager immediately or Occupational Health & Safety (604-591-4131).

The following information is provided as typical City of Surrey requirements, but does not relieve the contractor from complying with all applicable local, provincial and federal laws, regulations and bylaws.

PERSONNEL

1. You are expected to inform your employees of any potential hazard in the workplace and advise of appropriate action to be taken should a hazard be found or a fire or accident occur.
2. Contractors will restrict persons invited on the premises to employees only. No families or friends are permitted.
3. The contractor will advise the City of any on-site accidents involving the contractor's employees, or injuries to others caused by the contractor's business.

SAFETY MANAGEMENT SYSTEM

1. Contractors will ensure their employees utilize proper safety equipment and clothing as required for job site activities.
2. Contractors must follow and have on site proper written safe work procedures for hazardous work, e.g. Fall protection, confined space entry, hotwork, lockout, excavations and shoring, traffic management, etc.
3. Contractor must Identify workplace risk and implement suitable controls.
4. Contractor must provide safety training and education to staff and have training records available for review.
5. Contractor must have a health & safety program for its workers and sub-contractors
6. Contractor will provide appropriate First-Aid coverage for their workers and subcontractors.
7. Contractor must forward a weekly work task list prior to work commencement.
8. The qualified safety coordinator must participate in the City of Surrey OHS Orientation or attend the Prime Contractor's Orientation.

WORK AREAS – City Facilities

No work by contractors shall occur in any area without prior consent of the City of Surrey, Manager, Civic Facilities or his designated representative. Work during normal business hours of the City shall not create undue noise, smells or otherwise unduly disturb the work of City of Surrey staff or the public. If an activity requires that a disturbance is likely, the contractor shall whenever possible only do that work outside normal business hours.

All activities that create a hazard (i.e. work from a ladder, removal of a floor tile, emission of VOC's, etc.) to persons outside the contractor's supervision shall have warning devices, delineation or barriers, sealed spaces, etc. as would normally be required to protect any person from that hazard.

SAFETY ATTITUDE

Your safety record and attitude are important criteria used to judge your qualification for future bidding on solicitations with the City of Surrey.

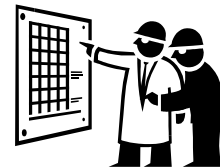
You can help ensure employee safety and your eligibility for future business with the City if you exhibit and practice a "Safe Work - Safe City" attitude.

The City of Surrey is concerned about the health, safety and wellbeing of all employees and contractors. It is essential we maintain a healthy, safe and productive work environment.

All Employees & Contractors:

It is everyone responsibility to:

- ❖ know and comply with WCB regulations and
- ❖ follow established safe work procedures
- ❖ immediately report any work related injury to his/her supervisor; and to the city representative
- ❖ not remain on the work site while his/her ability to work is in any way impaired
- ❖ report unsafe acts and conditions to their supervisor
- ❖ correct unsafe conditions immediately whenever it is possible to do so
- ❖ take reasonable care to protect your health & safety and the health and safety of other persons who may be affected by your act's or omissions at work



An employee must refuse to work if continuing to do so would endanger the health and safety of the employee, fellow employees or others. The worker must immediately report the circumstances of the unsafe condition to his or her supervisor or manager. If the unsafe condition is not remedied or the issue is not resolved the Manager,

A common sense approach usually resolves the issue.

Occupational Health & Safety must be contacted.

GENERAL RULES

1. For all secured worksites, contracted workers are required to sign in and sign out each day
2. (Access cards may be issued – a worker may need to provide an Identification document (i.e. Driver's License) in exchange).
3. Personal protective equipment, as determined by the City, through consultation with the Contractors Health and Safety Representatives must be worn when and where required. (Hard Hats, Safety Footwear, Safety Vests and Safety Glasses must be worn on active construction sites. Hearing Protection must be worn when noise levels are above 85dBA.)
4. Horseplay, gambling and the use of alcohol or narcotics will not be tolerated.
5. No Smoking within 7.5M of a City owned buildings door exits, windows and vents.
6. Report **ALL** injuries to your supervisor immediately and notify the City's site representative.
7. Report any unsafe conditions, including someone under the influence or hazards, which may allow an injury to occur to you, a fellow worker, or others on the worksite.
8. Report any property damage, regardless of how minor.
9. Restricted and controlled products will be labeled, used and stored in accordance with the associated regulations, e.g. WHMIS. Follow all procedural instructions when using or handling hazardous materials/controlled products and ensure that all containers of hazardous/controlled product materials are properly labelled and stored in designated areas.
10. Obey all posted signs and notices. Do not venture into areas that you are not authorized to enter.
11. Always use the correct posture when lifting and get assistance if the weight is excessive.
12. Do not work within the limits of approach to high voltage equipment.
13. If working at heights greater than 10 feet a Fall Protection system must be in place. The appropriate Fall Protection equipment must be worn at all times.
14. **Housekeeping** (Orderliness and good housekeeping are basic requirements and must be maintained at all times):
 - a) Aisles are to be kept clear at all times.
 - b) Individual work areas are to be kept clean and tidy.
 - c) All materials, tools, products and equipment are to be kept in their designated areas.
 - d) Liquid spills are to be cleaned up immediately to prevent slips and falls.
 - e) Accumulation of oily rags, combustible refuse or similar fire hazards will not be tolerated.
15. **Fire Prevention:**
 - a) Become familiar with Surroundings and emergency exit.
 - b) Ensure aisles and exits are not blocked at any time.

- c) Anytime a fire extinguisher is used, report it immediately to your supervisor, so that it can be recharged.

16. Equipment Operation (Any equipment, which could create a hazard, must be maintained in good condition):

- a) Equipment must not be repaired, adjusted or operated unless by a "competent person" who understand the safe operating procedures.
- b) Always be aware of the use and location of the "EMERGENCY STOP" button, if equipment is so equipped, before using the equipment.
- c) Loose clothing, jewelry and long hair must be secured to prevent becoming entangled with equipment.
- d) The Operator must check all safety devices on equipment before operation.
- e) All equipment must be turned off and the appropriate "lock-out" procedure followed, prior to repairs, cleaning, adjustment or lubrication.
- f) Radio/Walkman/I-pod Head phones are not allowed to be worn during regular work operations.
- g) All ladders must be of an approved type and length. Unacceptable ladders must be removed immediately from the premises.
- h) All vehicles and equipment on City property must be kept in safe mechanical condition at all times, and be operated only by persons with a valid driver's license and/or proper training and qualifications.
- i) Contractors will not operate any equipment, valves, switches, etc., which are part of the City's operation, unless specific permission is received from the department representative.

17. Ground Disturbance –Every time you dig in the ground, with a shovel or mechanized equipment, you run the risk of loss of life or damage to property if you hit any of the many buried cables, conduits, gas or oil pipelines and/or other underground facilities that serve our city, **BC One Call Must be called and a ticket obtained prior to commencing any ground disturbance activities.**

Issued By:	Occupational Health & Safety Section - Contractor Coordination Program
Date:	Revised: January 14, 2014 Original: August 15, 2014
Distributed:	Via Email & Posted on Intranet: January 16, 2015 : <u>August 15, 2014</u>

This document does not replace the Workers' Compensation Act or WorkSafeBC OH&S regulation. Each individual Contractor must have specific health and safety safe work rules and procedures that apply to their work tasks. Each Contractor must comply with the Workers' Compensation Act and WorkSafeBC Occupational Health & Safety Regulation and to all federal, provincial and local laws and regulations. If a contractor is unable to comply they must bring this to the attention of their qualified safety representative and to the Prime Contractor safety representative immediately.

Authorized Signature: _____

Name: _____
(Please Print)

Date: _____