

THE CORPORATION OF THE CITY OF WATERLOO
(the "City")
Purchase Order
GENERAL TERMS AND CONDITIONS

Terms and Price

1. These terms and conditions form part of every Purchase Order ("P.O.") issued by the City. No variation of the P.O., including these terms and conditions, is authorized unless such variation has been approved by the City's Purchasing Department, in writing.
2. If reference to a Request for Proposal ("RFP"), Request for Tender ("RFT"), Request for Quotation ("RFQ"), Informal Request for Quotation ("IRFQ") or Request for Information ("RFI") is made on the face of the P.O., then the terms and conditions of that RFP, RFT, RFQ, IRFQ or RFI take precedence over these terms and conditions in the case of a conflict.
3. The purchase price indicated on the face of the P.O. is the final, unconditional price.
4. The Harmonized Sales Tax (the "HST") must be shown as extra on all invoices.
5. Terms of payment shall be net 30 days from the date of receipt of the invoice or net 30 days from receipt of goods or completion of work as determined by the City, whichever is later.

Acceptance by the Supplier

6. The delivery of any supplies or the furnishing of any services in accordance with the P.O. shall confirm acceptance by the supplier of the P.O., including these terms and conditions.

Unfilled P.O.s

7. All unfilled P.O.s outstanding for longer than 30 days are subject to cancellation by the City, at its election, without any further obligation to the supplier.
8. The City may, at its election, cancel all or any part of the P.O. if it has not been filled as specified or shipped as agreed. All material that does not meet the City's specifications may be returned to the supplier at its own risk and expense.

Shipping

9. The supplier shall send the original bill of lading, or other sufficient shipping memorandum, to the City.
10. Shipments must be in accordance with shipping instructions and FOB point indicated on the P.O.. If routing is not stated in respect to collect shipments, such shipments must be made via the most economical routing appropriate for the items being shipped; in cases where the supplier does not adhere to these instructions, charges which are in excess of the most economical routing shall be charged back to the supplier.

11. On shipments originating outside of Canada, the supplier must furnish, in addition to its invoice, properly certified Canadian Customs invoices in quadruplicate, made up in accordance with the Canadian Customs requirements.
12. No boxing, packing or cartage charges shall be charged to the City unless specifically authorized on the face of the P.O..

Risk and Expense

13. Any materials used, labour or service expended to provide an estimate or quotation for work or service, prior to approval by the City of such estimate or quotation, shall be at the risk and expense of the supplier.

Save Harmless

14. The supplier shall be responsible for, and shall save harmless and indemnify, the City from and against all loss, costs, damages, suits, claims and demands of every nature whatsoever arising out of or by reason of the performance or purported performance of the contract by the supplier including, without limitation, those made or sustained in respect of property damage, personal injury (including death) and infringement of copyright, trademark, patent of invention, violation of provincial or federal regulation, or municipal by-law.

Safety

15. The supplier warrants that the goods delivered under the P.O. are in compliance with standards promulgated under the *Occupational Health and Safety Act* and any other federal, provincial or municipal legislation, act, code, standard or by-law regulating health and safety in the workplace.

Strikes, Accidents

16. In the event of strikes, accidents or unforeseen contingencies causing stoppage of work, the City reserves the right to suspend manufacture and/or delivery.

Warranty

17. The supplier warrants that the articles and work supplied hereunder shall be fit and sufficient for the purpose intended; that they shall conform to the specifications, drawings or samples furnished or adopted by the City; and shall be merchantable, of good quality and free from defects in material and workmanship.

Guarantee

18. During the period of one (1) year, or a longer period if required and stipulated on the face of the P.O., from the date of acceptance of the material by the City, the supplier shall repair and make good, without cost to the City, any damage, defects or faults resulting from nonconforming materials furnished by the supplier. Payment shall not constitute an implied acceptance of the material. The supplier shall be responsible for all costs incurred for delivery and return of all nonconforming material.

Material Safety Data Sheets

19. Material safety data sheets must be provided prior to receipt of goods, for any hazardous materials on this P.O.. If data sheets have not been received, goods may be returned to the supplier at its expense.

Blanket/Contract P.O.s Release Authorizations

20. If the P.O. is a blanket P.O., it shall not be binding on the City except to the extent that the City shall commit itself by subsequent written authorization issued to the supplier. It is understood that the City is not obliged to issue any subsequent release authorization whatsoever.

Arbitration

21. In the event of a dispute arising in connection with the P.O., the City may, in its sole and absolute discretion, refer the dispute to a confidential, binding arbitration pursuant to the *Ontario Arbitration Act, 1991*, as amended. In the event that the City refers the dispute to arbitration, the supplier agrees that it is bound to arbitrate such dispute with the City.

Interest

22. The City shall not be subject to interest in the event it fails to make payments as they become due under the terms and conditions of the P.O. or pursuant to an award by arbitration or Court.

CONSTRUCTION TERMS AND CONDITIONS

If a P.O. has been issued in relation to a project that constitutes an “improvement” as that term is defined in the Ontario *Construction Lien Act*, as amended, the following terms and conditions shall apply, **in addition** to the General Terms and Conditions outlined above:

Required Insurance

1. On request, the supplier shall provide the City with evidence of Worker’s Compensation insurance.
2. On request, the supplier shall provide the City with evidence of Comprehensive Liability and Automotive Liability insurance with limits of \$2,000,000.00 combined single limit or its equivalent, naming “The Corporation of the City of Waterloo” as an additional insured.

Safety

3. The supplier agrees to be the “constructor” for the purposes of the *Occupational Health and Safety Act*.
4. The supplier shall be responsible to take all necessary steps to protect personnel (workers, visitors, general public, etc.) and property, from any harm during the course of this contract.
5. The supplier shall abide by the current rules and regulations of the *Occupational Health and Safety Act*. Only personnel familiar with and abiding by the *Occupational Health and Safety Act* shall be permitted on site. The supplier shall be responsible for removing from the site any persons not observing or complying with the safety requirements of the *Occupational Health and Safety Act*.
6. The supplier shall report to the City and applicable jurisdictional authorities, any accident or incident involving the public or the supplier, including its personnel or property, arising from the supplier’s execution of the work.

Subcontractors

7. The supplier shall include all provisions of this contract in any agreement with subcontractors, and hold all subcontractors equally responsible for safe work performance.

Delay

8. If the supplier is responsible for a delay in the progress of the work due to an infraction of legislated or contracted health and safety requirements, the supplier shall, without additional cost to the City, work such overtime, acquire and use for the execution of the work, such additional labour and equipment as to be necessary, in the opinion of the City’s representative, to avoid delay in the final completion of the work or any operations thereof.

Holdback

9. Payments and progress draws shall be subject to a **ten percent (10%)** holdback. Upon substantial performance of the work and the expiry of the applicable lien period, the unpaid balance of the holdback amount shall be paid.

Removal of Liens

10. The supplier shall vacate, as soon as is practicable, all liens in relation to the P.O. that have been registered by any of its subcontractors or suppliers against City property. No payments shall be made while any lien remains registered against City property.