

## **Definitions**

**Region** - The Regional Municipality of Durham, its successors and assigns.

**Bidder** - The person, firm or corporation submitting a bid to the Region.

**Company** - The person, firm or corporation to whom the Region has awarded the contract.

**Contract** - The purchase order authorizing the company to do the work, purchase order alterations, the document and addenda, the company's bid.

**Subcontractor** - A person, firm or corporation having a contract with the company for any part of the work.

**Document** - The documents issued by the Region in response to which bids are invited for the performance of the work or supply of equipment.

**Work** - All labour, materials, equipment, fixtures, services, supplies, and required acts, furnished or performed by the company.

## **Contract documents and order of precedence**

The Contract documents shall consist of:

- 1) This purchase order.
- 2) Any documents referenced herein.
- 3) Changes to the purchase order issued in the form of change notices.=-

These documents, or portions thereof, take precedence in the order in which they are named above, notwithstanding the chronological order in which they are issued or executed. None of the conditions contained on the supplier's standard or general (printed) conditions of sale shall apply unless explicitly agreed to by the Region and set forth in this purchase order.

## **Delivery**

Time is of the essence of this Contract.

## **Assignment and subcontracting**

The Company named in this Contract shall not assign or subcontract the Contract or any portion thereof without the prior written consent of the Region.

### **Laws and regulations**

The Contract shall be governed by and interpreted in accordance with the laws of the Province of Ontario. The Company named in this purchase order shall comply with all relevant federal, provincial and municipal legislation, regulations, and by-laws in the course of carrying out the Work covered in this Contract. The Company is responsible for ensuring compliance by its suppliers and subcontractors.

### **Correction of defects**

If at any time prior to one year (or longer period if specified elsewhere in this Contract) after the delivery of the equipment or completion of the Work specified, any part of the Work becomes defective or is deficient or fails due to defect in design, material or workmanship or otherwise fails to meet the requirements of the Contract, then the Company must, upon request, make good on every such defect, deficiency or failure without cost to the Region. The Company shall pay for all transportation costs for parts and/or equipment to and from the Region's point of use.

### **Default by company**

If the Company named in this Contract commits any act of bankruptcy; or if a receiver is appointed on account of its insolvency or in respect of any of its property; or if the Company makes a general assignment for the benefit to its creditors then, without notice, the Region may terminate this Contract.

If the Company named in this Contract fails to comply with any request, instruction or order; or fails to pay its accounts; or fails to comply with or persistently disregards legislation, regulations, by-laws or directives of relevant authorities relating to the Work; or fails to carry out the Work with skill and diligence; or assigns or sublets the Contract or any portion thereof without Durham Region's written consent; or refuses to correct defective Work; or is otherwise in default in carrying out its part of any of the terms, conditions and obligations of the Contract; then in any such case, the Region, may, upon expiration of ten days from the date of written notice to the Company, terminate the Contract.

## Standard terms and conditions for purchase orders

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Any termination of the Contract by the Region, as aforementioned, shall be without prejudice to other rights or remedies that the Region may have.

If the Region terminates the Contract, it is entitled to: take possession of the Work in progress and finish the Work by whatever means the Region may deem appropriate; withhold any further payments to the Company; recover from the Company loss, damage and expense incurred by the Region by reason of the Company's default, which may be deducted from any monies due or becoming due to the Company.

### **Contract cancellation**

The Region shall have the right, which may be exercised from time to time, to cancel any uncompleted or unperformed portion of the Work or part thereof. In the event of such cancellation, the Region and the Company shall negotiate a settlement. The Region shall not be liable to the Company for loss of anticipated profits on the cancelled portion or portions of the Work.

### **Liability**

The Company shall defend, indemnify and save harmless the Region and its members of Council, officers, employees and agents against any and all costs (including legal fees and disbursements), expenses, losses, liabilities, claims, demands, actions or causes of action, or direct, indirect, general, special, incidental or consequential damages suffered or incurred by the Region (including claims made by third parties against the Region) as a result of its performance of the Contract or by reason of any matter or thing done, permitted or omitted to be done by the Company, subcontractors or their agents or employees with respect to this Contract.

The Company agrees to defend, fully indemnify and save harmless the Region from any and all charges, fines, penalties and costs that may be incurred or paid by the Region if the Region or any of its employees shall be made a party to any charge under the Occupational Health and Safety Act in relation to any violation of the act arising out of this Contract.

### **Patents and copyright**

The Company shall, at its expense, defend all claims, actions or proceedings against the Region based on any allegations that the Work or any part of the Work constitutes an infringement of any patent, copyright or other proprietary right, and shall pay to the Region all costs, damages, charges and expenses, including legal fees. If the Work or any part thereof is in any action or proceeding held to constitute an infringement, the Company shall forthwith either secure for the Region the right to continue using the Work or shall at the Company's expense, replace the infringing items with non-fringing Work or modify them so that the Work no longer infringes.

### **Instructions to Company**

1. The Company must communicate promptly with the Procurement Officer or designated agent for further instructions if he/she is unable to supply or fully complete the order as specified.
2. A detailed packing slip showing the Purchase Order number must accompany each shipment.
3. Original hard copy invoices are required for payment authorization and must be delivered or emailed to the Region of Durham, Expenditure Management, 605 Rossland Rd. E., PO Box 710, Whitby Ont., L1N 0A9 or EM\_invoices@durham.ca.
4. Invoices must show full particulars: purchase order number, description of goods or services, quantity, rate and charge for each item or service along with an extended total. Invoices must show the same name as the Company on the purchase order and the full address to which payment is to be remitted and should be printed in ink.
5. Invoices for labour and materials must give details of quantities and prices of materials and the number of hours worked with the rates per hours. Invoices for rental of equipment must give the commencement date of rental, the duration of rental and the rental rates.
- 6. Goods to be shipped FOB Region of Durham Location, Prepaid and Allowed.**
7. Harmonized Sales Tax (HST) must be charged where applicable and shown as a separate item on the invoice.