

## The Corporation of Norfolk County Purchase Order Terms & Conditions

### Part 1 – Interpretation

#### 1.0 Defined Terms

When used in the Contract, the following words or expressions have the following meanings:

“**Owner**” shall mean the Corporation of Norfolk County

“**Contractor**” herein is also referred to as a “**Supplier**” and/or a “**Vendor**” and shall mean the person or firm to whom the award is made and is identified on the face of the Purchase Order

### Part 2 – General Terms and Conditions

#### 2.0 Documentation

Prior to the commencement of any work, repair and/or installation being provided to or on County property, current documentation as requested and as applicable to the scope of the work must be provided to Norfolk County.

#### 2.1 Acceptance

In accepting this Order, it is understood that the Vendor agrees to all terms and conditions related to it.

#### 2.2 Variations

No variation to these Terms & Conditions will be recognized, unless such variation has been authorized in writing by the purchasing authority.

#### 2.3 Laws and Regulations

The Vendor shall comply with relevant federal, provincial and municipal regulations and by-laws pertaining to the Work and its performance. The Vendor shall be responsible for insuring similar compliance by its suppliers and subcontractors. This Purchase Order shall be construed according to the Laws of the Province of Ontario.

#### 2.4 Accessibility for Ontarians with Disabilities Act, 2005 (AODA)

Prior to the commencement of any work on property of Norfolk County, the Contractor shall furnish evidence of compliance with the requirements of Section 7 and 80.49 of Ontario Regulation 191/11, Integrated Accessibility Standard Regulation, under the Accessibility for Ontarians with Disabilities Act, 2005 (AODA).

#### 2.5 Patents

The Contractor agrees to indemnify and save harmless the Owner from any claim or action from the alleged infringement of any patent or trademark or infringement of copyright as a result of the use or sale of these goods.

## 2.6 Plans

If there is a formal Contract between the Vendor and the County that refers to plans or specifications the same shall be deemed to be incorporated in and be part of this Order and any plans, blueprints, patterns, etc. furnished by the County to the Vendor shall not be published or disclosed by the Vendor to any other person or corporation and shall be returned to the County upon completion of this Order.

## 2.7 Delay

In the event of delay in delivery or services, the Owner may terminate the contract and hold the Contractor responsible for any damages.

## 2.8 Cancellation

Failure to comply with specifications and Terms and Conditions of this Order, or to deliver material in accordance with Vendor's promise shall be grounds for cancellation by the County without penalty.

## 2.9 Force Majeure

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism, **pandemics, epidemics, emergencies, including public health emergencies**; but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) business days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.

## Part 3 – Relationship Between the County and the Vendor

### 3.0 Assignment

No assignment of this Contract shall be made by the Vendor without the written Consent of the County.

### 3.1 Supplier/Contractor/Consultant Evaluations

The Contractor should be aware that the County has in place a rating system to evaluate the Contractor's performance throughout the length of the Contract. The evaluation is a tool to provide feedback to the Contractor on its performance. It will also be used as a reference when requested by other municipalities or agencies. Copies of the completed evaluation form will be forwarded to the Contractor. Blank copies for the Contractor's information are available upon request from the County.

## **Part 4 – Performance by the Vendor**

### **4.0 Warranty**

All Goods must carry a minimum one-year warranty from time of receipt at the County or time of installation or time of acceptance, whichever is later.

### **4.1 Equipment**

New and repaired equipment, equipment on loan, and equipment on trial, must pass inspections for safety, performance and compliance with manufacturer's specifications prior to acceptance. The warranty period, if any, shall begin on the date that incoming inspection is passed. New Equipment and Equipment on trial must also be provided with a minimum of two complete user manuals including instructions for use, warnings of potential hazards, parts lists, schematics, and service and maintenance requirements. Payment to Vendors will not be authorized until these conditions are fulfilled.

### **4.2 Delivery**

The receipt of Goods by a carrier shall not be deemed to be receipt by the County, and the title to the Goods shall not pass to the County until they are delivered at their destination to a staff member or agent of the County.

### **4.3 Inspection**

The County will receive Goods shipped but reserves the right to inspect the same after delivery and to return all or any portion of it at the Vendor's expense if found to be defective, damaged or not in compliance with the requirements of this Purchase Order, including any specifications and/or drawings.

### **4.4 Shipment**

Time of delivery shall be of the essence in this Order and failure of the Vendor to deliver all or any part of the Goods/Services ordered at the time or times specified shall confer on the County the right to cancel this Order at its option without penalty. Quantities received in excess of quantities specified may be returned at the Vendor's expense if not agreed upon by the County.

### **4.5 Packing Slip**

Packing slips must accompany each shipment. The County Purchase Order number must appear on all packing slips.

### **4.6 Supplier Unloading, Placing or Installing Responsibility**

Where the Vendor is responsible for unloading and placing or installation of goods and has not so arranged, the County is authorized to undertake this work at the expense of the Vendor and the County will not be responsible for any damage to the Goods resulting from such action on the part of the County.

**4.7 Shipments from outside Canada**

For shipments from outside Canada, properly certified customs invoices should be emailed to Norfolk County at the time shipment is made. A copy of customs invoices is to accompany the shipment with the bill of lading.

**4.8 Signature**

Signature must be obtained from a County employee for all deliveries, including the employee's name clearly printed.

**4.9 Value Declaration**

The Vendor will be held liable for any loss resulting from an improper value shown on shipping papers

**4.10 Hazardous Goods**

Goods must be transported by the Contractor or Contractor's agent in accordance with all relevant federal and provincial legislation covering the handling and transportation of all hazardous and dangerous goods.

**4.11 Material Safety Data Sheets (MSDS)**

For each controlled product ordered, an MSDS conforming to the Workplace Hazardous Materials Information System (WHMIS) 2015 legislation must accompany each shipment of the Goods.

**Part 5 – Payment for Deliverables****5.0 Pricing**

Unless otherwise stated, the prices quoted on this Purchase Order shall be payable in Canadian funds; FOB Norfolk County, Ontario, Canada and shall include any Excise Taxes and applicable duty. All applicable taxes such as the Harmonized Sales Tax, if applicable, shall be shown extra and separately. Unless otherwise stated, the price shown on this Contract shall include all necessary packaging and shipping costs to the point shown as the destination of the Goods. Any variance from this price must be negotiated and prior approval in writing by the Manager or designate.

**5.1 Lump Sum Payment**

Unless otherwise stated in writing, 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 Manager or designate, whichever is later.

All invoices must be submitted to [accounting@norfolkcounty.ca](mailto:accounting@norfolkcounty.ca) by the Vendor and must reference the purchase order number and include the amount invoiced, exclusive of HST. HST and all other applicable taxes shall be shown separately.

**5.2 Extras**

No charges for extras will be allowed unless they have been ordered on this purchase order or by a change order issued by the Manager or designate.

## **Part 6 – Insurance and Indemnification**

### **6.0 Insurance**

The Vendor shall put into effect commercial general liability insurance, in a form acceptable to the County, with the County listed as an additional insured, including a cross-liability clause or endorsement, a 30 day notice of cancellation provision and products and complete operations coverage. The Vendor will also put into effect such other additional insurances as required by the County. The Vendor shall provide the County with evidence of insurance upon request.

### **6.1 Mutual Indemnification**

Each Party hereby agrees to indemnify and hold harmless the County, its employees, and authorized agents (collectively, the "Indemnified Parties") from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including Claims for third party bodily injury (including death), personal injury and property damage, in any way based upon or occasioned by the negligence or willful misconduct, whether by act or omission, of the Contractor, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Contractor's obligations under, or otherwise in connection with, the Contract. The Contractor further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization, including, without limitation, Norfolk County, claimed or resulting from such Claims. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

### **6.2 Workplace Safety and Insurance Board (WSIB)**

Where applicable, the Vendor will forward to Norfolk County every ninety (90) days during the Term:

- a. a valid Certificate of Clearance from the Workplace Safety and Insurance Board each time work is to be conducted on the County's premises , or
- b. proof of Independent Operator status (for those not included in the "Class G: Construction List", as of January 1, 2013), or
- c. proof of "Employer by Application" status.