

City Of Pickering Standard Quotation Terms and Conditions

1. Definitions

City - The Corporation of the City of Pickering, its successors and assigns.

Company - The person, firm or corporation to whom the City has awarded the Contract, its successors and assigns.

Contract - The purchase order authorizing the Company to do the work, the quotation, the bonds or security (if any), the Company's quotation and change notices, appendices, and addenda (if any).

Subcontractor - A person, firm or corporation having a Contract with the Company for any part of the work.

Quotation Document - The documents issued by the City in response to which quotations are invited for the performance of Work.

Work - All labour, materials, products, supplies, goods, articles, equipment, fixtures, services, acts, required to be done, furnished or performed by the Company, which are the subject of the Contract.

2. Contract Documents and Order of Precedence

The contract documents shall consist of the purchase order; and the Company's quotation accepted by the City.

The documents and portions thereof take precedence in the order in which they are named above, notwithstanding the chronological order in which they are issued or executed.

Amendments to the Contract, in the form of purchase order alterations, shall take precedence over the documents or portions thereof amended thereby. Purchase order alterations, appendices and addenda to any contract document shall be considered part of such document.

The intent of the contract is that the Company shall supply work complete for a particular purpose, be fit and suitable for the City's intended use.

None of the conditions contained in the Company's standard or general conditions of sale shall be of any effect unless explicitly agreed to by the City and set forth in the purchase order or specifically referred to therein.

The Contract shall be governed by and interpreted in accordance with the laws of the Province of Ontario.

3. Delivery

Unless otherwise stated, the Work specified or called for in or under the quotation shall be delivered or completely performed by the Company as soon as possible

and in any event within the period set out herein as the guaranteed period of delivery or completion after receipt of a purchase order therefore.

A detailed delivery ticket or piece tally, showing the exact quantity of goods, materials, articles, or equipment, shall accompany each delivery thereof. A receiver's receipt shall not bind the City to accept the Work, covered thereby, or the particulars of the delivery ticket or piece tally therefore.

Unless otherwise stated, all work pursuant to a purchase order based on the quotation, shall be subject to inspection by the City at the point of unloading, or the site of work or service.

The Company shall be responsible for arranging the Work so that completion shall be as specified in the Contract.

4. Pricing Requirement

Prices shall be in Canadian Funds, quoted separately for each item stipulated, F.O.B. destination.

Prices shall include all incidental costs and the Company shall be deemed to be satisfied as to the full requirements of the quotation. No claims for extra work will be entertained and any additional work must be authorized in writing prior to commencement.

Payment shall be full compensation for all costs related to the Work, including operating and overhead costs to provide work to the satisfaction of the City.

All prices quoted shall include applicable customs duty, excise tax, freight, insurance and all other charges of every kind attributable to the work.

Harmonized Sales Tax shall be extra and not shown, unless otherwise specified herein.

If the Company intends to manufacture or fabricate any part of the Work outside of Canada, it shall arrange its shipping procedures so that its agent or representative in Canada is the importer of record for custom purposes.

Should any additional tax or duty or any variation in any tax or duty be imposed by the Government of Canada or the Province of Ontario or any increase or decrease in the rate of foreign exchange become directly applicable to goods, material, articles or equipment specified or called for in this quotation subsequent to its submission by the Company and before the delivery of goods, material, articles or equipment or the completion of the work or services covered thereby, pursuant to a purchase order issued by the City, the appropriate increase or decrease in the price of such goods, material, articles or equipment, shall be made to compensate for such changes as of the effective date thereof.

5. Terms of Payment

Payments made hereunder, including final payment, shall not relieve the Company from its obligations or liabilities under the Contract.

Acceptance by the Company of the final payment shall constitute a waiver of claims by the Company against the City, except those previously made in writing in accordance with the Contract and still unsettled.

The City shall have the right to withhold from any sum otherwise payable to the Company such amount as may be sufficient to remedy any defect or deficiency in the Work, pending correction of it.

Invoices shall be forwarded via mail to:

The Corporation of the City of Pickering
Attn: Accounts Payable
Pickering Civic Complex
One The Esplanade
Pickering, ON
L1V 6K7

or via email to:

accountspayable@pickering.ca

6. Patents and Copyrights

The Company shall, at its expense, defend all claims, actions or proceedings against the City based on any allegations that the Work or any part of the Work constitutes an infringement or any patent, copyright or other proprietary right, and shall pay to the City all costs, damages, charges and expenses, including its lawyer's fees on a solicitor and his own client basis occasioned to the City by reason thereof.

The Company shall pay all royalties and patent licence required for the Work.

If the Work or any part thereof is action or proceeding held to constitute an infringement, the Company shall forthwith either secure for the City the right to continue using the Work or shall at the Company's expense, replace the infringing Work with non-infringing work or modify it so that the Work no longer infringes. Quotations for equivalents may be considered but the mark or brand thereof must be specified.

7. Assignment

The Company shall not assign the Contract or any portion thereof without the prior written consent of the City.

8. Laws and Regulations

The Company shall comply with relevant Federal, Provincial and Municipal statutes, regulations and by-laws pertaining to the work and its performance. The Company shall be responsible for ensuring similar compliance by its suppliers and Subcontractors.

The Company shall comply with all Federal, Provincial and Municipal statutes, regulations and by-laws whether or not specified and/or shown on drawings, obtain all permits and notices as may be required for the work. The Company shall be responsible for ensuring similar compliance by its suppliers and Subcontractors.

All fees, taxes, duties and other expenses related thereto shall be the responsibility of the contractor. No additional costs to the City will be incurred as a result of such undertakings.

9. Correction of Defects

If at any time prior to one year after the actual delivery date or completion of the Work, (or specified warranty/guarantee period if longer than one year) 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, the Company upon request, shall make good every such defect, deficiency or failure without cost to the City. The Company shall pay all transportation costs for Work both ways between the Company's factory or repair depot and the point of use.

10. Default by Company

- (a) If the Company 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 of its creditors; then, in any such case, the City may without notice, terminate the Contract.
- (b) If the Company fails to comply with any request, instruction or order of the City, or fails to pay its accounts, or fails to comply with or persistently disregards statutes, regulations, by-laws or directives of relevant authorities relating to the Work, or fails to prosecute the Work with skill and diligence, or assigns or sublets the Contract or any portion thereof without the City's prior written consent, or refuses to correct defective Work; or is otherwise in carrying out its part of any of the terms, conditions and obligations of the Contract, then, in any such case, the City may, upon written notice to the Company, terminate the Contract.
- (c) Any termination of the Contract by the City, as aforesaid, shall be without prejudice to any other rights or remedies the City may have and without incurring any liability whatsoever in respect thereto.

(d) If the City terminates the Contract, it is entitled to:

- i take possession of all Work in progress, materials and construction equipment then at the project site (at no additional charge for the retention or use of the construction equipment), and finish the Work by whatever means the City may deem appropriate under the circumstances:
 - ii withhold any further payments to the Company until completion of the work and the expiry of all obligations under the Correction of Defects Section;
 - iii Recover from the Company loss, damage and expense incurred by the City by reason of the Company's default (which may be deducted from any monies due or becoming due to the Company any balance to be paid by the Company to the City).
- (e) City reserves the right to not consider a company for an indeterminate period of time who has been terminated by the City or has been deemed by the City to have provided unsatisfactory Work, goods, services, or health and safety practises in accordance with the City's Purchasing Policy.
- (f) The City reserves full discretion as to when Work, goods or services are deemed to be unsatisfactory and exercising its rights related thereto without liability or settlement.

11. Contract Cancellation

The City shall have the right to cancel any uncompleted or unperformed portion of the Work or part thereof, upon providing written notice to the Company.

The City shall not be liable to the Company for loss of anticipated profit on the cancelled portion or portions of the Work.

12. Quantities

Where quantities are shown as approximate, they are not guaranteed to be accurate and are furnished without any liability on behalf of the City and shall be used as a basis for comparison only.

Payment will be by the unit complete at the quoted rate on actual quantities deemed acceptable by the City.

13. Surety

The Company shall, if the City in its absolute discretion so desires, be required to satisfy surety requirements by providing a deposit in the form of a certified cheque, bank draft or money order or other form of surety, in an amount determined by the City. This surety may be held by the City until 60 days after the day on which all Work covered by the Contract has been completed and

accepted. This surety may be returned before the 60 days have elapsed providing satisfactory evidence is provided that all liabilities incurred by the Company in carrying out the Work have expired or have been satisfied, discharged or provided for and that a clearance certificate from the Workplace Safety & Insurance Board has been issued.

Failure to furnish the surety within two weeks from date of request thereof by the City shall make the award of the Contract by the City subject to withdrawal.

14. Workplace Safety & Insurance

All of the Company's personnel must be covered by the Workplace Safety & Insurance Board at the Company's expense. The Company shall provide the City with a Clearance Certificate from the Workplace Safety & Insurance Board prior to the commencement of work, certifying that all assessments and liabilities payable to the Board have been paid, and that the bidder is in good standing with the Board. The bidder shall provide the City with a Clearance Certificate prior to final payment certifying all payments by the Company to the Board in conjunction with the subject Contract have been made and that the City will not be liable to the Board for future payments in connection with the Company's completion of the project.

A Company deemed to be an Independent Operator by the Workplace Safety & Insurance Board is to provide a copy of such letter to the City containing the Independent Operator identification number issued by the Board. An Independent Operator **must be covered by WSIB optional insurance** and provide proof of this coverage upon request.

15. Liability

The Company agrees to at all times defend, fully indemnify and save harmless the City from all actions, suits, claims and demands, losses, costs, charges and expenses arising by reason of injury or death to any person or any property or charges brought or made against or incurred by the City from or relating to the Work performed or to be performed herein.

16. Insurance

Upon request by the City, the Company shall take out and keep in force a policy of liability insurance in the amount of \$2,000,000 inclusive each occurrence (or such larger amount as may be required), and not less than two million (\$2,000,000.00) automotive liability insurance coverage. Certificate(s) of insurance shall be provided upon request by the City.

(a) The policy shall include The Corporation of the City of Pickering, as additional named insured without subrogation in respect of all operations performed by or on behalf of the Company, a certificate of insurance shall be completed by the Company's agent, broker or insurer.

- (b) The policy shall not be altered, cancelled or allowed to expire or lapse, without thirty (30) days prior written notice to the City.
- (c) If the City is not provided with a renewal of the policy at least thirty (30) days prior to its expiration date, then the City may arrange a public liability policy insuring the City in the amount of \$2,000,000.00 and an automotive liability policy insuring the City in the amount of two million (\$2,000,000) at the expense of the Company, which may be recovered from amounts owed to the Company or from any form of security still in the City's possession.

17. Unpaid Accounts

The Company shall indemnify the City from all claims arising of the unpaid accounts relating to the Work. The City shall have the right at any time to require satisfactory evidence that the Work of which any payment has been made or is to be made by the City is free and clear of liens, attachments, claims, demands, charges or other encumbrances.

18. Suspension of Work

The City may without invalidating the Contract, suspend performance by the Company from time to time of any part or the whole of the work for such reasonable time as the City may determine. The resumption and completion of the Work after the suspension shall be governed by the schedule established by the City.

19. Changes in the Work

The City may, without invalidating the contract, direct the Company to make changes to the Work. When the change causes the increase or decrease in the Work, the contract price shall be increased or decreased by the application of unit prices to the quantum of such increase or decrease.

20. Accessibility Regulations for Contracted Services

In accordance with Ontario Regulation 429/07, Accessibility Standards for Customer Service Sect. 6, every provider of goods and services shall ensure that every person who deals with members of the public or participates in the developing of the service providers policies, practices and procedures governing the provision of goods and services to members of the public, shall be trained on the following:

- (a) How to interact and communicate with persons with various types of disability
- (b) How to interact with persons with disabilities who use assistive devices or require the assistance of a guide animal, or a support person;
- (c) How to use equipment that is available on the premises that may help in the provision of goods or services;

- (d) What to do if a person with a particular type of disability is having difficulty accessing the provider's goods or services; and Information on the policies, practices and procedures governing the provision of goods and services to people with disabilities.

A Company dealing with members of the public on behalf of the City of Pickering or engaged in Work for the City must meet the requirements of Ontario Regulation 429/07 with regard to training.

A document describing the training policy, a summary of the contents of the training and details of training dates and attendees will be requested within 2 to 3 days of the closing date and must be submitted to the City, generally within two (2) days from time of request. If not available, the on-line training module set up by the Ministry of Community Services and Social Services – Access Canada – <http://www.mcscs.gov.on.ca/mcscs/serve-ability/splash.html> shall be completed by the Company, who will need to be trained prior to any Work is undertaken for the City. At the end of the training module, Company to print the Certificate of Completion and provide it to the City as instructed.

21. Statement of Understanding

The Company agrees the quotation it submitted was made without connection, knowledge, comparison of figures, or arrangements with any persons submitting a quotation and it is in all respect fair and without collusion or fraud.

The Company agrees that no member of City Council or any officer of the Municipal Corporation is, shall be or become interested, directly or indirectly in, or in the performance of the contract, or in the business to which it relates, or in any portion of the profits thereof, or in any of the monies to be derived there from.

22. Freedom of Information

The Company acknowledges that any quote submitted shall become a record belonging to the City of Pickering and therefore is subject to the Municipal Freedom of Information and Protection of Privacy Act. This provincial law gives individuals, businesses and other organizations a legal right to request records held by the City, subject to specific limitations. The Company should be aware that it is possible that any records provided to the City, including but not limited to, pricing, technical specifications, drawings, plans, audio-visual materials or information about staff, parties to the bid or suppliers could be requested under this law. Records relating to the contract could possibly be released under MFIPPA. If the Company believes that all or part of the quote should be protected from release, the relevant parts should be clearly marked as confidential. Please note that this will not automatically protect the submission from release, but it will assist the City in making a determination on release if a request is made. The identity of all companies, as well as total prices, may be available to the public subject to the City's Purchasing Policy.

23. Respect in the Workplace

The Company shall ensure all employees undertaking the work of this contract are respectful to City employees and residents. City Policy No. HUR 070, Respect in the Workplace, is applicable to contractors, as identified in Section 05 of the Policy.