

City of Nelson Standard Terms and Conditions for Purchase Orders

1. Application of Terms and Conditions

Unless superseded by other related documents and agreement, these terms and conditions are included in our purchase order document and will apply to and be binding on the Contractor for the provision of any goods and services to the City.

2. Definitions

For the purposes of these terms and conditions, unless the context otherwise requires:

- a) "Owner", "City", "The City", "Corporation", "Nelson Hydro", "City of Nelson" means The Corporation of the City of Nelson
- b) "must", "mandatory", "require", or "shall" means a requirement that must be met
- c) "should" or "desirable" means a requirement having a significant degree of importance to the objectives of this document
- d) "Contract" means the written form of agreement between the Owner and the Contractor, or, in the absence of a written form of agreement, a Purchase Order serves as the Contract.
- e) "Contractor" means the successful vendor

3. Business Licence

The Contractor shall apply and pay for a City of Nelson Business License, or hold a current West Kootenay Inter-Community Business Licence. Applications are available on the City's website at <http://www.nelson.ca/166/Business-Licence>.

4. WorkSafeBC

Anyone providing services to the City will strictly comply with all rules and regulations under the Workers Compensation Act or any successor legislation and will provide a letter of good standing from WorkSafeBC prior to commencement of work at the designated site(s).

5. Insurance Requirements

Based on the nature of the service and goods provided, the Contractor shall provide certificates of insurance as requested by the City.

The Contractor shall obtain and maintain in force during the period of service, and for a minimum of (twelve) 12 months following completion of the works, with an insurance company a policy of insurance acceptable to and approved in writing by the Owner, the following insurance with limits on an occurrence basis not less than those shown in respective items following:

- a) Commercial general liability insurance providing coverage not less than five million (\$5,000,000.00) dollars each occurrence, all inclusive against liability

for bodily injury, death, or property damage on an occurrence basis and Completed Operations Liability coverage not less than five million (\$5,000,000.00) dollars each occurrence inclusive against liability for bodily injury, death and/or damage to property of others arising out of the existence of any condition in the completed work on any installation or repair operations during the period of one year next ensuing after acceptance of the completed work by the Owner.

- b) Automobile liability insurance for standard non-owned, hired vehicles, and leased vehicles providing coverage not less than five million (\$5,000,000.00) dollars each occurrence, all-inclusive against liability for bodily injury, death or property damage on an occurrence basis.
- c) Automobile insurance for public liability and property damage providing coverage not less than five million (\$5,000,000.00) dollars each occurrence, all-inclusive on owned vehicles.
- d) Other insurance liability coverages may be applicable depending on the nature of the services to be provided, which will be assessed on a case by case basis by the City prior to PO issuance.
- e) Notwithstanding anything contained elsewhere herein, it is understood and agreed that the Owner shall not be liable for any loss or damage to Contractor's equipment including loss of use thereof.
- f) The deductible or reimbursement for any policy required under this section shall not exceed five thousand dollars (\$5,000.00) per claim. The Contractor and/or his subcontractors, as may be applicable, shall be responsible for any deductible amounts.
- g) The **“Corporation of the City of Nelson”** shall be named as the additional insured in the commercial general liability policy. It is the responsibility of the Contractor to ensure that each sub-contractor complies with the same insurance conditions as the Contractor, with the exception of course of construction and boiler and machinery insurance. Each policy shall provide that no cancellation or material change in the policy shall become effective until after thirty (30) days notice of such cancellation or change shall have been given to the Owner by registered mail, and the Contractor will upon demand of the Owner deliver over to the Owner all such policy or policies of insurance and the receipt for payment of premium thereon; and should the Contractor neglect so to obtain and/or maintain in force any such insurance as aforesaid or delivery such policy or policies and receipts to the Owner, then it shall be lawful for the Owner to obtain and/or maintain such insurance, and the Contractor hereby appoints the Owner his true and lawful attorney to do all things necessary for this purpose. All monies expended by the Owner for insurance premiums under the provisions of this clause shall be charged to the Contractor.

Those providing consulting services must have errors and omissions Insurance. The Contractor providing these services shall, at the Contractor's expense, establish and maintain errors and omissions insurance to the following minimum requirements:

Consulting services for projects <u>not exceeding</u> \$500,000 in value	\$500,000.00
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Consulting services for projects <u>between</u> \$500,000 and \$1 million in value	\$1,000,000.00
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Consulting services for projects <u>exceeding</u> \$1 million in value	\$2,000,000.00
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The maximum deductible in all categories shall be \$50,000.00

The Contractor's professional errors and omissions insurance shall remain in force for the life of the project and for twelve (12) months after Owner with prior notice of changes and cancellations:

“The Insurer of the insured Contractor shall provide written notice to be delivered by hand, or sent by registered mail to the Owner at least thirty (30) days in advance of the activation date of any proposed cancellation, change or amendment restricting coverage under this policy.”

6. Indemnification of Corporation

The Contractor releases, indemnifies and saves harmless the Owner and its elected officials, officers, employees, contractors, solicitors, assigns and agents from and against all claims, demands, actions, proceedings, suits, loss, damage, costs (including legal costs), fines, penalties, charges and expenses (in this section collectively "Claims") which the Owner may incur, suffer or be put to arising out of or in connection with this Contract or acts or omissions of the Contractor under this Contract, including:

- a) those arising out of or in connection with any loss or damage to persons (including bodily injury and death) or property as a result of or in connection with, directly or indirectly, this Contract,
- b) economic loss,
- c) those arising from a breach by the Contractor of any of its agreements, representations, warranties or covenants set forth in this Contract,

provided, however, that this obligation to indemnify the Owner shall not apply to Claims to the extent, if any, to which they may arise from the wrongful or negligent act or failure to act of the Owner or from any Owner breach of this Contract. Without limitation, the Contractor shall promptly

pay the Owner in respect of any Claims recoverable by a third party from the Owner or the property of the Owner.

7. Confidentiality, Ownership and Use of Documents and Materials

- a) The Owner is subject to the British Columbia Freedom of Information and Protection of Privacy Act. Subject to Sections 12 through 22 inclusive of the Act, any reports and or documents produced by or on behalf of the Owner are subject to public review under the Act.
- b) The Contractor shall keep confidential for an unlimited period of time all communications, plans, specifications, reports or other information used in connection with the project except those requiring disclosure by operation Owner.
- c) The Contractor shall, by employing written agreements, bind all employees, sub-consultants and agents to the obligations required by this Article.
- d) The Contractor agrees that all studies, reports, software, drawings, plans, models, designs, photographs, specifications, tender documents and other materials prepared or developed by or on behalf of the Contractor which are employed in connection with the project are, and shall remain the property of the Owner. The Owner reserves the ownership and all copyright, patent and trademark rights therein and in the work executed there from, all of which may only be used by the Contractor with the prior written Contract of the Owner.
- e) All concepts, methods, products or processes produced by or resulting from the services rendered by the Contractor in connection with the project or which are otherwise developed or first reduced to practice by the Contractor in the performance of the services, and which are patentable, capable of trademark or otherwise, are and shall remain the property of the Owner, and the Contractor shall not use, infringe upon or appropriate such concepts, products or processes without the prior written agreement of the Owner.

8. Dispute

The Contractor acknowledges that it has complied, and will continue to comply during the performance of this purchase order, with the provisions of all applicable third party contracts and all applicable laws in accepting this purchase order.

The laws of British Columbia govern this agreement, the courts of British Columbia have exclusive jurisdiction over any disputes under it, and all provisions of the International Sale of Goods Act (BC) are specially excluded.

9. PO Changes

The City reserves the right at any time to cancel or terminate this purchase order in whole or in part, by written or verbal notice, confirmed in writing.

The City also reserves the right to make changes in any one or more of the following:

- Quantity
- Specifications
- Methods of shipment or packing
- Place or timing of delivery

If any such change causes a change in the cost of, or the time required for, performance of this purchase order, an equitable adjustment shall be made in the price or delivery schedule, or both.

No agreement or understanding to modify this purchase order shall be binding on the Owner unless in writing and signed by the Owner's authorized agent.

10. Purchase Order Number

A City of Nelson purchase order number is required, and must appear on all bills of lading, waybills, invoices, progress billing, packing slips, containers, packages and correspondence.

The Contractor, by execution of this purchase order, or by commencement of performance, enters into a binding Contract of purchase and sale with the Owner for the supply of all goods and services as referenced on the face of this purchase order, subject to these terms and conditions.

The Owner's placement of this purchase order with the Contractor is expressly conditioned upon the Contractor's acceptance of all the terms and conditions contained on, attached to, or expressly incorporated by reference in this purchase order.

Any terms and conditions proposed by the Contractor that are inconsistent with, or in addition to, the terms and conditions of this purchase order are void and of no effect, whether provided in an invoice, confirmation of purchase or other communication.

11. Invoicing and Payment

- All invoices shall be emailed to ap@nelson.ca
- Invoices are paid net 30 days
- All invoices must bear a unique reference (invoice) number