

City of Coquitlam

Standard Terms and Conditions – Purchase of Goods and Services

1. **Agreement:** Unless expressly stated otherwise on a purchase order or purchase contract (each a “PO”) issued by the City of Coquitlam (“City”), these Terms and Conditions of Purchase are incorporated into and form part of the PO and are binding upon the vendor named therein (“Vendor”). The PO, together with these Terms and Conditions of Purchase and any other documents referenced herein or in the PO, constitutes the entire agreement (“Agreement”) between the City and Vendor with respect to the subject matter of the PO and supersedes any prior understanding or agreements between the parties, whether written or oral. If the PO is not signed by the Vendor, Vendor will be deemed to have agreed to be bound by this Agreement through its acceptance of the PO or the delivery of goods or performance of services hereunder.
2. **Goods and Services:** Vendor agrees to supply the goods, materials, equipment and services identified in the PO and all deliverables related thereto (“Goods and Services”) in accordance with the terms and conditions of this Agreement.
3. **Amendments:** No amendment to this Agreement will be valid or binding unless made in writing and duly executed by the City.
4. **Purchase Order Number:** The PO number(s) must appear on all bills of lading, waybills, invoices, progress billing, packing slips, containers, packages and correspondence.
5. **Invoices:** Vendor will submit invoices in PDF format for each order, quoting the PO number / work order number / contract number and sent to: apinvoices@coquitlam.ca. Invoices will be submitted within seven (7) days of supply of Goods and Services. Vendor must show as a separate item on the invoice any brokerage, duty fees, applicable sales taxes, authorized special charges for packing, boxing, crating, or services and freight charges, and show on the invoice to which item it is applicable. Vendor will provide copies of actual freight bills to support any freight charges. Incorrect or incomplete invoices will be sent back to the vendor for correction and may result in delays to payment.
6. **Price:** All prices, fees and costs will be as stated in the PO and in Canadian funds, unless otherwise noted on the PO.
7. **Taxes:** If PST or GST is applicable, Vendor must provide its PST and GST registration numbers to the City with the delivery of the invoice.
8. **Payment and Discounts:** Payment terms are net thirty (30) days from the date the Goods and Services are accepted by the City or receipt of invoice, whichever is later. Early payment discounts will be calculated from the date the Goods and Services are accepted by the City, or receipt of invoice, whichever is later. Any cash discount periods will be calculated from the date the invoice is received by the City. The City will not be responsible for the payment for any goods supplied or services performed without a PO. Payment of any invoice prior to the supply of the Goods and Services will not be deemed to be an acceptance of the quantity and quality of the Goods and Services as invoiced, or at all.
9. **Payment Set Off:** The City may withhold sums due to Vendor hereunder and apply such sum against Vendor’s obligations to its suppliers or sub-contractors in relation to this Agreement or as a set off for any damaged or defective Goods and Services not supplied in accordance with the terms hereof.
10. **Audit:** If payment for Goods and Services are made on the basis that the price directly relates to Vendor’s costs, the City has the right to audit Vendor’s records relating to such costs, at any reasonable time for one year after final acceptance of the Goods and Services.
11. **F.O.B. Point:** Unless otherwise agreed to in writing, all deliveries will be “Free on Board” (FOB) Destination, Freight Prepaid, to the shipping location designated by the City.
12. **Customs:** For all shipments originating outside of Canada, Vendor will ensure that properly executed customs documents are completed and must accompany each shipment, unless instructed otherwise by the City. Vendor will be responsible for paying any excise tax or other customs duties or levies in force at the time of shipment. Vendor will clearly label and identify the City’s Customs Broker’s contact information as follows:

Livingston International Inc.
1140 West Pender Street, Suite 500, P.O. Box 2168
Vancouver, BC, V6E 4H5, Canada
Phone: 604.685.3555 | After Hours: 1.403.542.7266 | Contact for Carriers: 1.866.548.7277
Email: clientservicecanada@livingstonintl.com
13. **Delivery and Shipping:** Vendor will supply Goods and Services pursuant to the schedule and to the place or places specified in this Agreement. If a method of shipping, carrier or route is specified, no deviation from those terms may be made without the City’s prior approval. Vendor will be responsible for any additional costs, losses or damages resulting from an unauthorized deviation in method of shipping, carrier or route. The City reserves the right to cancel any Goods and Services not shipped as specified in this Agreement.
14. **Packing:** No extra charges by Vendor will be allowed for tarping, special handling, packing boxing or crating, or for cases, packages, pallets, drums, reels or boxes, unless agreed to by the City. Vendor will mark all cases, packages, and bundles delivering the Goods and Services with the PO number. Vendor will enclose a packing slip with each shipment showing the

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PO number and full description of all Goods and Services. Vendor will be responsible for any damage to the Goods and Services resulting from improper packing.

15. **Substitutions:** No substitutions of Goods and Services will be accepted unless they are authorized by the City and, if authorized, must conform to specifications or other requirements and be equal or better in terms of value, functionality, performance, durability and availability.
16. **Inspection and Acceptance:** All Goods and Services are subject to inspection and approval by the City upon delivery. The City may refuse acceptance of Goods and Services that are damaged or defective, that do not conform to specifications or that otherwise fail to comply with this Agreement. The City may inspect Goods and Services at any time, but neither inspection nor non-inspection by the City relieves Vendor of its obligations hereunder. If the City considers that any Goods and Services are damaged or defective, fail to conform to specifications or fail to otherwise meet requirements herein, Vendor at its sole expense will promptly make the necessary corrections, replacements or repairs. Vendor will be responsible for all costs associated with the return and replacement of any damaged, defective or non-conforming Goods and Services, including all freight and handling charges.
17. **Passage of Title and Risk:** Title to the Goods and Services will pass to the City upon the earlier of payment for such Goods and Services by the City or when the Goods and Services are accepted by the City, provided that risk of loss and damage will remain with Vendor and will not transfer to the City until the Goods and Services are accepted by the City.
18. **Performance:** Vendor will supply all Goods and Services diligently and in a professional, skilled manner, using qualified personnel, and will furnish all skills, labour, supervision, equipment, materials and supplies required. On completion of any Goods and Services, Vendor will leave the City's property clear of all tools, equipment and waste.
19. **Warranty:** Without limiting any additional warranties provided by Vendor, Vendor warrants that all Goods and Services will be new, of merchantable quality, free from defects in workmanship, design and materials and fit for their intended purpose, will strictly conform to applicable samples, specifications, drawings or other requirements furnished by the City and will be transferred to the City free and clear of liens, charges and encumbrances. Unless a longer period is specified in this Agreement, Vendor will, without cost to the City, correct, replace or repair any Goods and Services which are defective or become defective, by reason of workmanship, design or material, or that otherwise fail to conform to the requirements of this Agreement, within one year from the date of acceptance by the City. No express warranty or condition herein, nor any other term, will limit or exclude any warranty or condition otherwise imposed by statute. All warranties will remain in effect notwithstanding the expiry or earlier termination of this Agreement. Vendor will assign to the City or will enforce for the benefit of the City any and all warranties granted by manufacturers, suppliers or sub-contractors.
20. **Deliverables:** Vendor hereby assigns and transfers all right, title and interest required for the City and its representatives to use and receive the benefit of all Goods and Services, including all data, reports, specifications, plans, designs, models, drawings, concepts, products or other work product, for any purpose whatsoever (other than resale), including purchase of parts for repairs or replacement.
21. **Intellectual Property:** Vendor represents and warrants that neither the supply of the Goods and Services nor the use thereof will infringe any patent, copyright, trademark, trade secret or other intellectual property right. Vendor will indemnify and hold harmless the City against any and all loss, liability or expense attributable to any claim for alleged infringement of patent, copyright, trademark or trade secret arising out of the purchase or normal use of the Goods and Services, and Vendor at its sole expense will defend each such claim, provided that the City may participate in the defence without relieving Vendor of its obligations herein. This section will survive the expiry or earlier termination of this Agreement.
22. **PCI DSS Applicable Goods and Services:** If, through the supply of the Goods and Services, Vendor will have access to or the ability to impact the City's information technology environment, will receive, possess, store, process or transmit payment cardholder data on behalf of the City or using the City's information technology, or will provide software, equipment or systems that the City will use or allow to be used to process cardholder data, Vendor agrees to comply with and be bound by the provisions set out in the [Payment Card Industry \(PCI\) Data Security Standard \(DSS\)](#) document.
23. **Compliance with Applicable Law:** Vendor will comply with all applicable laws, bylaws, orders, regulations, ordinances, codes, specifications and requirements of all regulatory authorities, including all laws governing occupational health and safety and protection of the environment.
24. **CSA Approval:** All electrical equipment must be Canadian Standards Association (CSA) approved or Province of British Columbia Electrical Energy Board approved, and must bear the appropriate sticker.
25. **Safety and Prime Contractor:** Vendor will supply all Goods and Services in strict compliance with all applicable health and safety regulations and guidelines, including the *Workers Compensation Act* and regulations thereunder and any City safety procedures that Vendor has been instructed to follow. Vendor must be registered and in good standing with WorkSafeBC if required or permitted under the *Workers Compensation Act*, must maintain such good standing during the term of this Agreement and must provide its WorkSafeBC registration numbers. Vendor agrees that it is the "Prime Contractor" for the purposes of the *Workers Compensation Act* and regulations, unless otherwise advised and accepted in writing by an authorized officer, employee or agent of the City.

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- 26. Hazardous Goods and Work Conditions:** Vendor is solely responsible for determining the nature and scope of all risks arising from any equipment, tanks or containers in or upon which services are to be performed by Vendor that may have contained or contain hazardous or toxic substances or chemicals, and without limitation, Vendor assumes all responsibility and liability in connection therewith. Vendor will identify hazardous or toxic goods with warning labels and will provide to the City written instructions concerning potential hazards and recommended procedures for the handling and transportation of the goods and health and safety data if the goods consist of chemical products. Vendor will provide a copy of the current Safety Data Sheet (SDS) sheet in compliance with WHMIS for all hazardous goods to the City prior to shipment of goods.
- 27. Builders Liens:** Vendor will, at its own expense, do everything necessary, including through the institution, prosecution or defence of legal proceedings, to promptly discharge from title to City property any claim of lien, certificates of pending litigation or lien.
- 28. Permits:** Vendor will, at its own expense, obtain and maintain all permits, licenses and other approvals required to supply the Goods and Services.
- 29. Business License:** If Vendor carries on business in the City, Vendor must have a valid and subsisting City of Coquitlam or Tri Cities Inter-municipal business license.
- 30. Non-Exclusivity:** This Agreement does not entitle Vendor to exclusive rights for the supply of goods or provision of services.
- 31. Conflict of Interest:** Vendor represents and warrants that neither it nor any of its officers or directors or any employee with authority to bind Vendor has any financial or personal relationship or affiliation with any elected officials or employees of the City or their immediate families that might in any way create or be seen to create a conflict between the loyalties owed by such official or employee to the City and the loyalties owed directly or indirectly to Vendor. Vendor will take steps to mitigate any actual or perceived conflict of interest, including offering gifts and benefits, and promptly notify the City in writing of any conflict of interest.
- 32. Ethical Conduct:** Vendor will at all times conduct its business with fairness, integrity and honesty and treat its employees and subcontractors respectfully and free of discrimination and harassment. Vendor will provide employees and subcontractors with a safe and healthy workplace.
- 33. Confidentiality:** Vendor will keep confidential all non-public information provided or obtained during performance of this Agreement.
- 34. Freedom of Information and Protection of Privacy Act:** Vendor acknowledges that the City is subject to the *Freedom of Information and Protection of Privacy Act* and that disclosure of information may be required pursuant thereto.
- 35. Disputes:** In the event of a dispute, the City and Vendor will make all reasonable efforts to resolve their dispute by amicable negotiations and agree to provide without prejudice, frank, candid and timely disclosure of relevant facts, information and documents to facilitate these negotiations.
- 36. Termination:** The City may terminate this Agreement at any time by giving notice to Vendor, and thereupon the City will be relieved of all further obligations hereunder except for the payment of the balance outstanding for Goods and Services supplied prior to the time of termination. Termination will be without prejudice to any other rights or remedies the City may have against Vendor.
- 37. LIMITATION OF LIABILITY:** IN NO EVENT WILL THE CITY BE LIABLE TO VENDOR FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT.
- 38. Insurance:** Vendor, during the performance of services on City property, assets or equipment, will maintain at its own expense the following insurance: (a) Worker's Compensation insurance or coverage in full compliance with all laws of the jurisdiction in which the work is performed; (b) Automobile Liability Insurance covering both owned and non-owned automotive vehicles; and (c) Comprehensive or Commercial General Liability (CGL) Insurance in an amount not less than \$5,000,000 inclusive per occurrence against bodily injury and property damage. At the request of the City, Vendor will satisfy the City that such insurance is in effect.
- 39. Professional Liability Insurance:** For professional and technical services, Vendor will maintain at its own expense: (a) Automobile Liability Insurance covering both owned and non-owned automotive vehicles; (b) Comprehensive or Commercial General Liability (CGL) Insurance in an amount not less than \$2,000,000 inclusive per occurrence against bodily injury and property damage, and (c) Professional Errors and Omissions Liability in an amount not less than \$500,000 per claim and \$1,000,000 aggregate.
- 40. Indemnity:** Notwithstanding any insurance requirements in this Agreement, Vendor will indemnify and hold harmless the City, its elected officials, employees, agents and other representatives from and against any and all losses, claims, demands, damages, causes of action, costs and expenses, including legal fees and expenses, of any kind whatsoever that the City may sustain, incur, suffer, or be put to at any time in connection with the performance of this Agreement, including any claim of infringement of intellectual property rights, where the same are based upon, arise out of or occur, directly or indirectly, in relation to any act or omission of Vendor or of any agent, employee, officer or director of Vendor, or any other person for whom it is responsible at law, in respect of this Agreement, excepting liability arising out of, and to the extent of, the independent acts of the City. Vendor at its sole expense will defend all claims or suits in respect of the foregoing, but the

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City may participate in the defence thereof without relieving Vendor of any obligations hereunder. This section will survive the expiry or earlier termination of this Agreement.

- 41. Notices:** Notices under this Agreement will be in writing, and may be delivered by electronic mail, courier or registered mail to the Office of the Procurement Manager.
- 42. Assignment:** Vendor may not, without the City's prior written consent, assign this Agreement, any monies due hereunder, or any claim arising in connection herewith, or subcontract all or any portion of the Goods and Services to be provided. The City's consent to any assignment or subcontract will not relieve Vendor from its obligations under this Agreement.
- 43. Relationship:** Nothing in this Agreement will have the effect of creating an employment, partnership, joint venture or agency relationship between the City and Vendor.
- 44. Governing Law:** This Agreement is governed by and will be construed in accordance with the laws of the Province of British Columbia.
- 45. Priority:** In the event of a conflict or inconsistency between these Terms and Conditions of Purchase and a provision of another document that is part of this Agreement, the provisions of these Terms and Conditions will govern unless otherwise expressly stated in the other document.
- 46. Waiver:** Any failure of the City to enforce or require the strict keeping or performance of any of provision of this Agreement will not constitute a waiver and will not affect or impair the City's right at any time to avail itself of such remedies as the City may have for any breach or breaches of such provisions.
- 47. Time:** Time is of the essence of this Agreement.
- 48. Enurement:** This Agreement will enure to the benefit of and be binding upon the parties and their respective successors, executors, administrators and permitted assigns.

Contact

Office of the Procurement Manager
T: 604.927.3037
E: bid@coquitlam.ca

Mailing Address

City of Coquitlam
Attn: Procurement Manager
3000 Guildford Way
Coquitlam, BC V3B 7N2