



VILLAGE OF LUMBY – PURCHASING TERMS AND CONDITIONS

1. GENERAL TERMS & CONDITIONS

A purchase order number must be shown on all related invoices, shipping papers, transportation bills, packages, packing lists and correspondence. All applicable transportation charges must be prepaid unless instructions to the contrary appear on the face of the purchase order. A separate invoice in duplicate must be rendered for each order and for each shipment or delivery. Goods and Services Tax (GST) and Provincial Sales Tax (PST) if applicable, must be shown separately on the invoice along with the GST and/or PST registration number(s). A packing list must be included with each shipment applied against this order. No charge will be accepted for packing, handling or cartage, unless expressly agreed. Advise immediately of any shortage or delay in shipment. Where applicable serial numbers are to be shown on the invoice including serial numbers of trade-in equipment. WHMIS legislation requires suppliers to provide appropriate labels and material safety data sheets for regulated products. No product containing asbestos shall be supplied at any time without written authorization.

2. PAYMENT TERMS

Payment by the Village shall be made after final acceptance by the Village of the goods and services, notwithstanding any previous passing of title to the goods. Unless otherwise stated on the Purchase Order, payment terms are net thirty (30) days. Payment terms begin the date the Accounts Payable Department receives the invoices. Prices are to include all packing, handling, taxes, duties and are otherwise all-inclusive.

3. APPLICABLE LAW

The terms of this Purchase Order shall be governed and construed in accordance with the laws of the Province of British Columbia.

4. SUSPENSION, CHANGES AND CANCELLATION

The Village may, upon notice in writing to Vendor suspend or cancel this Purchase Order, change the quantity, specifications or other attributes of the goods ordered or change the place or time of delivery of such goods. The Village shall appraise the value of such suspension, cancellation or change and adjust the purchase price as is reasonably required to reflect the appraisal. No adjustments will be made for goods already delivered.

5. TITLE / WARRANTY / COMPLIANCE

The Vendor warrants and represents to the Village that it has good and marketable title to the goods, free and clear of any and all claims, charges or other encumbrances, and that it has full authority to transfer title to the goods to the Village. All goods supplied by Vendor shall conform to the specifications, drawings, samples or descriptions are provided the goods shall be new and of the best quality. Vendor warrants that the goods shall be, and remain for a period of twelve (12) months following acceptance by the Village, of merchantable quality fit for the purpose for which they are intended and free from defects in workmanship of materials and design, where design is the responsibility of Vendor.

All goods, equipment, supplies, labour and workmanship associated with this purchase must conform to all necessary standards for use in Canada and the Province of British Columbia such as CSA, ULC, ETL, WCB, Canadian Weights and Measures, Canadian Electrical Codes, etc.

6. ACCEPTANCE OF GOODS

The goods shall be subject to inspection and testing by the Village within a reasonable time after receipt. If upon inspection or testing the goods, or any portion thereof, do not conform to specification or fail to meet Vendors warranties as contained herein, then the Village at its option may:

- (a) reject and return the goods to Vendor;
- (b) require Vendor, at its sole cost and expense, to replace the nonconforming or defective goods in a manner and time satisfactory to the Village; or
- (c) require Vendor, at its sole cost and expense, to repair the nonconforming or defective goods in a manner and time satisfactory to the Village. The Village shall be under no obligation for the goods until they have been accepted by the Village.

7. LIABILITY AND INDEMNITY

Vendor shall indemnify and hold the Village harmless from and against any and all expenses, actions, causes of action, damages, claims and demands whatsoever, either at law or in equity, arising as a result of or in connection with the performance or non-performance of this Purchase Order by Vendor. Vendor's obligation to indemnify and hold the Village harmless shall include, but not be limited to, any cause, action, suit, proceeding claims or demand based upon actual or alleged infringement of any Canadian or foreign letters patent, copyright trade secret or trademark.

8. WAIVER

Waiver by the Village of the strict performance of any term, condition, covenant, warranty or agreement in this Purchase Order shall not itself constitute a waiver or abrogate such term, condition, covenant, warranty or agreement, nor be a waiver of any subsequent breach of same or other provision of this Purchase Order.

9. EXCUSABLE DELAY

Neither party shall be in default from any failure to perform hereunder, if such failure arises from an unexpected delay. For purposes of this Purchase Order, an unexpected delay shall mean an act of war (whether declared or undeclared), the order of any court or government body or agency of competent jurisdiction, fire, flood, earthquake, unusually severe weather, or strike, but shall not include a lack of money. The party claiming relief thereunder shall give prompt notice to the other, together with all necessary information with respect to the circumstances of the unexpected delay.

10. TITLE

Title to any documents (including designs, specifications, or drawings), proofs, dies or templates, supplied by the Village or produced by Vendor upon the request of The Village shall at all times rest with the Village.

11. TERMINATION

If Vendor should default in performance hereof or breach any of its obligations of this Purchase Order, cease to carry on its business, be adjudged bankrupt or make an assignment for the benefit of creditors, or if a trustee or receiver of Vendor's business or assets is appointed, then the Village may cancel this Purchase Order in whole or in part. The Village shall have no liability or obligation whatsoever to Vendor by reason of or resulting from such cancellation but at the Village's sole discretion may pay Vendor its actual direct out-of-pocket costs of performance. The goods or uncompleted portions of the goods shall be the property of the Village and Vendor shall safely hold the same for a reasonable time pending receipt of the Village's written instructions for the shipping or other disposition of the goods.

12. ASSIGNMENT

Vendor shall not assign, subcontract or otherwise transfer, in whole or in part, any of its rights or obligations hereunder without the prior written consent of the Village.

13. SET-OFF

The Village may set-off against any amounts owed to Vendor under this Purchase Or Order or any amounts that become due or owing it to Vendor by the Village.

14. INSPECTION

Materials or equipment purchased hereunder are subject to inspection and approval upon delivery at the Village's place of business. The Village reserves the right to reject and refuse acceptance of merchandise which is not in accordance with the instructions and specifications of the merchandise ordered or not in compliance with Vendor's warranty (expressed or implied). Merchandise not accepted will be returned to Vendor at Vendor's expense. Payment for any merchandise hereunder shall not be deemed an acceptance thereof.

15. INDEPENDENT CONTRACTORS

Vendors shall be independent contractors and shall at no time be considered to be an employee, agent, servant, or partner of the Village of Lumby.

16. ENTIRETY OF AGREEMENT

This Purchase Order, together with all documents, drawings or specifications incorporated herein, comprises the entire agreement between the parties and supersedes all other previous statements, representations, or agreements, whether oral or written.