

## Purchase Order Terms and Conditions

1. **Service(s)** - means all goods, materials and/or services required under this Agreement.
2. **General Obligations** - The Supplier agrees to provide the Services in accordance with the provisions of the Agreement.
3. **Representations and Warranties** - The Supplier represents, warrants and covenants that:
  - a) The information contained in its Proposal or Quote is true and accurate;
  - b) It has the necessary skills, expertise, materials and experience to provide and perform the Services in accordance with the provisions of this Agreement;
  - c) It shall provide and perform the Services to the WCB in a professional manner satisfactory to WCB and comply with all reasonable requests of WCB;
  - d) Services provided and performed under the Agreement shall conform to the Requirements and be fit for its intended purpose; and
  - e) It and its sub-contractor(s) shall ensure all employees comply with all on-site WCB safety and security requirements.
4. **Agreement** - The Agreement between the WCB and the Supplier shall consist of: (1) the Purchase Order and any attachments, (2) the Purchase Order Terms & Conditions, and, if applicable, (3) any Proposal or Quote submitted by the Supplier to the WCB.

The Supplier's Proposal or Quote shall form part of the Agreement. Claims and representations made in the Proposal or Quote shall constitute contractual warranties.
5. **Agreement Amendments** - The Agreement may only be modified by a written Agreement signed by persons duly authorized by the WCB and the Supplier.
6. **Agreement Extension** - The WCB reserves the right to unilaterally extend the period of the Agreement for up to thirty (30) days beyond the stated expiration date.
7. **Applicability** - This Agreement shall supersede any previous negotiations, agreements, contracts or other documents between the WCB and the Supplier dealing with the same subject matter.
8. **Enurement** - Subject to the express limitations set out in this Agreement, this Agreement shall enure to the benefit of, and be binding upon, the parties and their respective successors and permitted assigns.
9. **Acceptance** - The Supplier shall not commence any billable work or provide any Services under this Agreement until receiving an executed Agreement or purchase order.
10. **Conflict of Interest** - During the term of this Agreement, the Supplier shall not enter into any other contract with any other party, the requirements of which will conflict with the Requirements of this Agreement or which will or may result in its interest in any other contract and this Agreement being in conflict.
11. **Assignment** - The Supplier shall not assign or sublet the Agreement to anyone without having first obtained the WCB's written approval which may be withheld without providing reasons. In the event of such written approval being provided, the Supplier shall remain responsible for the performance of all terms, conditions, covenants and provisions of the Agreement by any sub-contractor(s) or assignee.
12. **Organization – Employment Disclaimer** - The Agreement is for the Services of the Supplier, as a separate and independent business. Neither the Supplier nor its employees, directors, officers and agents shall be entitled to any benefits of any nature whatsoever available to employees of the WCB other than to payments which are expressly provided for herein and those prescribed by law.

The Supplier, in providing and performing the Services under the Agreement, does so under a contract for services and not of service. No agency, partnership, employer-employee or master-servant relationship is intended to be created between the Supplier and the WCB.

In the event that the WCB becomes liable for any taxes, contributions, interest or other amount pursuant to a decision of the Canada Revenue Agency, in connection with any amount paid or payable by the WCB under this Agreement to the Supplier, the Supplier shall indemnify and hold the WCB harmless for any such amount.

This indemnity and hold harmless clause shall not apply to any penalties levied against the WCB by the Canada Revenue Agency in connection with this Agreement provided the Supplier has at all material times acted in good faith.

13. **Health and Safety** - Persons engaged in the performance of the Agreement must be employees of the Supplier, sub-contractor(s) retained by the Supplier or employees of the sub-contractor(s) (i.e. the Supplier's employees or the sub-contractor's employees are collectively referred to as "Personnel"). Personnel shall be deemed competent to perform the work safely. The WCB reserves the right to adjust Health and Safety requirements for the Supplier, or sub-contractor(s) to align with provincial health mandates. Upon request, the Supplier or sub-contractor(s) shall provide the WCB with copies of pre-job hazard assessments within 24 hours. The Supplier shall ensure that its responsibilities under the Occupational Health and Safety Act and Regulations and Codes made under that Act, the Alberta Safety Codes Act and any other legislation concerning employer/ employee relationships are met.
14. **Conduct of the Employees of the Supplier** - While the Personnel are on the WCB's premises, the Supplier shall:
  - a) Be responsible for direction and supervision and, if necessary, discipline of all Personnel;
  - b) Ensure all Personnel conform to the WCB's standards of behavior and dress and respect to the general requirements of the WCB;
  - c) Ensure all Personnel comply with all on site WCB safety and security requirements;
  - d) Ensure that, should fire of any nature occur, Personnel shall notify the local Civic Emergency Response Department immediately, whether extinguished or not;
  - e) Make its own arrangements for emergency treatment in the event of an injury or accident involving Personnel. All injuries and accidents shall be reported to the WCB immediately; and
  - f) Ensure Personnel are not accompanied by acquaintances, family members, or any other person unless that person is an authorized employee of the Supplier or any of its sub-contractor(s) and that person's attendance at the WCB's premises is necessary for the performance of the Agreement.
15. **Ethics** - While providing services to the WCB under this Agreement, the Supplier and its Personnel shall comply with the WCB's Corporate Ethics Program. Information respecting this Program may be obtained from the WCB website at <https://www.wcb.ab.ca/about-wcb/bid-and-vendor-information.html>.
16. **Performance Standards**
  - a) The Supplier agrees that time is of the essence in the performance of the Agreement.
  - b) The WCB may notify the Supplier of any deficiencies, and in the event that the Supplier has failed to rectify the deficiencies within the time allotted by the WCB, the WCB may, at its discretion, obtain the Services, complete the work or rectify the deficiencies to its satisfaction and shall be entitled to deduct and set-off the costs of such work or rectification from any moneys due to the Supplier.
  - c) The WCB shall not be obligated to make any payments for work completed, or Services rendered by the Supplier, to remedy errors or omissions for which, in the reasonable opinion of the WCB, the Supplier is responsible.
17. **Changes** - The WCB, without invalidating the Agreement, may alter, add to or delete from the work, the Agreement sum being adjusted accordingly provided the Supplier has agreed to the same in writing. All such changes shall be governed by the conditions of the original Agreement. Any changes and unforeseen extras must be documented by change orders and approved by the appointed WCB representative prior to proceeding. Supplementary invoices not supported by change orders will not be honored. The Supplier must notify the WCB of changes in the Supplier's policy or organization that affects their ability to meet their obligations outlined in the Agreement.

18. **Termination** - The following shall be deemed to be defaults of the Agreement:

- a) Failure by the Supplier to make adequate progress in the performance of the Agreement, or alternatively, an indication by the Supplier that they cannot or will not meet any or all of the requirements of the Agreement;
- b) Breach of any representation or warranty herein contained; and
- c) If the Supplier makes any assignment for the benefit of creditors; has a Receiving Order made against it or makes a Response under any bankruptcy legislation; if any action, legislation or otherwise, is taken to accomplish a winding up, dissolution or liquidation of it; or if a receiver is appointed or any execution issues of or against the property of the Supplier which remains outstanding for ten (10) days.

Should the Supplier fail to comply with the terms of the Agreement, or otherwise be in default of the Agreement, the WCB may terminate the Agreement for cause and without notice to the Supplier or may give the Supplier written notice of default and the period of time the Supplier shall have to fully correct such default. If the default has not been resolved to the WCB's complete satisfaction at the end of the period, the WCB may terminate the Agreement, for cause, without further notice.

Termination of this Agreement, as aforesaid shall not be in lieu of, limit or restrict, in any fashion, any other right or remedy available to the WCB herein or at law.

19. **Cancellation** - The WCB may, upon giving thirty (30) days written notice, unilaterally terminate this Agreement without cause. If this Agreement is so terminated, the Supplier shall be entitled to receive payment for Services actually provided and actually performed, as of the date termination becomes effective. The WCB shall have no further obligation under this Agreement. The Supplier shall turn over all data, information and work in progress in its possession at such termination to the WCB.

20. **Force Majeure** - Neither the Supplier nor the WCB shall be deemed to be in default of its obligations under the Agreement, if, and for as long as, any delay or non-performance is directly or indirectly caused by or results from events of Force Majeure beyond the control of that party. These events shall include, but not be limited to, strikes, civil disturbances, wars, fires, acts of God, and acts of any government or branch or agency thereof.

Force Majeure shall not include the following:

- a) Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences; and
- b) Late performance by a sub-contractor(s) unless the delay arises out of a Force Majeure occurrence in accordance with this clause.

21. **Hold Harmless** - The Supplier agrees to indemnify and hold harmless the WCB, its directors, officers, employees and agents, from any and all third-party claims, demands or actions for which the Supplier is legally responsible, to the extent those claims arise directly out of the negligence or willful acts by the Supplier's employees, agents, or for whom the Supplier is legally responsible which cause bodily injury, death or damage. This hold harmless requirement shall survive this Agreement.

Excepting negligence or willful acts on the part of the WCB, the WCB shall not be liable nor responsible for any bodily or personal injury or property damage of any nature whatsoever that may be suffered or sustained by the Supplier, its officers, directors, agents, sub-contractor(s) or employees in the performance of this Agreement.

22. **Insurance Requirements** - The Supplier must obtain and maintain, at its own expense and without limiting its liabilities herein, the following insurance in accordance with the Alberta Insurance Act:

- a) General liability insurance in an amount not less than \$2,000,000 per occurrence, insuring against bodily injury, personal injury, and property damage, including loss of use thereof. Such insurance shall be in effect for the duration of the Agreement and any extensions or renewals.

For Information Technology related purchases, the following additional insurance is required:

- b) Errors and omissions insurance in an amount not less than \$2,000,000 per claim insuring its liability resulting from errors and omissions in the performance of its Services under this Agreement. This insurance is required to remain in place for a period of 36 months following the completion or termination of this Agreement and this condition may be satisfied with a 36-month extended reporting period.
- c) Cyber network security and privacy liability insurance in an amount not less than \$2,000,000 per claim, including first party and third party coverage, crisis management coverage and breach response costs, privacy breach notification and credit monitoring costs, data recovery costs, and hardware and software repair or replacement costs, covering losses arising out of a claim solely or partly due to the unauthorized use of or access to the Supplier's electronic systems, hardware, or software, including when that software is licensed to the WCB, and covering liability resulting from actual or potential data or privacy breach, including but not limited to a security breach (including the introduction or transmission of malware), unauthorized access, unauthorized use, failure to protect personal or corporate confidential information, which results in damage, destruction or misappropriation of such information in electronic or non-electronic format, or cyber extortion, or identity theft or regulatory actions. This insurance is required to remain in place for a period of 36 months following the completion or termination of this Agreement and this condition may be satisfied with a 36-month extended reporting period.
- d) Any insurance called for under this Agreement shall be endorsed to provide the WCB thirty (30) days advance written notice of cancellation or material change (material identified as any change restricting or reducing required coverage).
- e) As evidence of all required insurance, certificates of insurance shall be provided to the WCB prior to the commencement of work under the Agreement and within thirty (30) days of any insurance renewal. Copies of the certificates of insurance shall be provided promptly upon request. All evidence must comply with the insurance requirements and be free of limitations or qualifications as to compliance.

23. **Incoterms** – Delivery Duty Paid (DDP).
24. **Licenses** - The Supplier shall maintain in current status, all Federal, Provincial and Municipal licenses and permits required for the operation of the Supplier's business as applicable to the Agreement and shall apply for and pay for all permits and licenses required for the execution of the Agreement.
25. **Codes, Regulations, By-Laws** - The Supplier shall comply with all laws, ordinances, rules, regulations, orders, codes and other legally enforceable requirements applicable to the performance of the Agreement.
26. **Right of Audit** - The WCB reserves the right to audit or cause to be audited the Supplier's financial statements and accounts regarding the WCB's account at any time during the term of this Agreement and for seven (7) years thereafter.
27. **Payment** - Provided that an invoice is submitted as required, herein, the WCB shall pay to the Supplier the undisputed portion of an invoiced amount, in arrears, within thirty (30) days of receipt of such invoice. Payment of any invoice shall not preclude the WCB from making adjustments to invoices due to Services not meeting the requirements of this Agreement.
28. **Payment Indemnification** - The Supplier shall be responsible for issuing payment for Services supplied or performed by the Supplier's employees and will indemnify and hold harmless the WCB, its officers, directors, agents and employees for any and all claims whatsoever arising out of the demands of the employees, sub-contractor(s), suppliers or any other third party incurred in the performance of the Agreement. The Supplier shall, at the WCB's request, furnish satisfactory evidence that all such obligations have been paid, discharged or waived.
29. **Set Off** - The WCB may set off any amount due to the Supplier under the terms of this Agreement as against any amount due to the WCB by the Supplier under this Agreement.
30. **Inspection** - All Services are subject to final inspection and acceptance by the WCB. Services failing to conform to the specifications of the Agreement will be held at the Supplier's risk and may be returned to the Supplier. If so returned, all related costs are the responsibility of the Supplier. Services failing to conform to specifications of the Agreement may result in the WCB making adjustments to invoices.

31. **Damaged Goods** - Goods are expected to conform to all established specifications, including quality, quantity, and delivery parameters. Damaged or defective product shall be identified to Supplier. Supplier will pick up the unaccepted product within 24 hours and provide a replacement at no charge to WCB. If Supplier is warehousing the product for the WCB the replacement will come from the Supplier stock, otherwise it will come from the manufacturer.

If Supplier receives information or discovers that any product it provides to WCB contains a substantial defect, whether in products, design, or manufacture, which could significantly interfere with its intended use, Supplier shall promptly notify the WCB of those defects or problems.

32. **Non-Waiver** - Mere acceptance of shipment of the Services specified and any inspection incidental thereto by the WCB, shall not alter, limit or affect the obligations of the Supplier or the rights of the WCB herein or at law.

33. **Title and Risk** - Title to Services shall not pass to the WCB until delivered to a WCB location and until such time shall be at the sole risk of the Supplier.

34. **Confidentiality** - All data and information of or concerning the WCB, WCB clients, or of third parties to whom the WCB owes a duty of confidence, obtained by the Supplier or its Personnel is (i) to be treated as confidential; (ii) to be used only to supply or perform Services to the WCB pursuant to this Agreement; (iii) not to be reproduced or disclosed to anyone other than WCB personnel as required in the performance of this Agreement; and (iv) all copies and records of same shall be delivered without cost forthwith upon demand. Notwithstanding the foregoing, the Supplier is entitled to keep a copy of such information for its legitimate business purposes.

Nothing in this Agreement will prohibit or limit either Party's use of information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (i) previously known to it without an obligation of confidence, (ii) independently developed by or for it, (iii) acquired by it from a third party which is not under an obligation of confidence with respect to such information, or (iv) which is or becomes publicly available through no breach of this Agreement, or (v) as required by law. In the case of a disclosure required by law, the receiver agrees to notify the discloser in writing prior to the disclosure to provide an opportunity to restrain the disclosure.

Notwithstanding termination or cancellation of the Agreement, this clause shall continue to be in effect until waived by WCB in writing. Without limiting the generality of the foregoing, the Supplier acknowledges that WCB shall have the right to obtain injunctive relief for violation of the terms of the clause and all those carrying out the Agreement on the Supplier's behalf are subject to the provisions of sections 147 and 148 of the Workers' Compensation Act of Alberta and are subject to prosecution for breaching the confidentiality in addition to being liable to suit by WCB.

35. **Invalid or Unenforceable Provisions** - If any provision of this Agreement is, for any reason, found to be invalid or unenforceable by a body of competent jurisdiction, that provision shall be deemed severed from this Agreement and such invalidity, illegality or unenforceability shall not affect the validity of any other of its provisions.

36. **Notices** - All notices or communication to be made under this Agreement by either party shall be mailed by prepaid post, facsimiled or delivered to the representative at the address of the other party stated in this Agreement. If it is faxed or delivered between 8:00 a.m. and 4:00 p.m. Alberta Time, Monday to Friday (excluding Statutory holidays), then it shall be deemed to have been received that day. Notice shall not be given by mail, if mail delivery is affected or apt to be affected by a strike of Post Office personnel.

37. **Obligations of the Supplier** - All the obligations of the Supplier under the Agreement, including, but not limited to, indemnification and insurance requirements, shall survive the termination or completion of this Agreement.

38. **Canadian Standards Association (CSA) Approval** - The Supplier shall ensure that all electrical, materials, hardware and assemblies supplied under this Agreement are fully CSA approved and bear appropriate approval stickers in accordance with the requirements of the Canadian Electric Code and the Alberta Electrical Code Regulation.

39. **Workplace Hazardous Materials Information System (WHMIS) Compliance** - The Supplier shall ensure all goods and materials are provided with appropriate labels and material safety data sheets where required by WHMIS legislation. This is only required when dealing with materials designated as hazardous.

40. **Protection of Privacy Act and Access to Information Act** - All information obtained by the WCB is a record as defined in Alberta's *Access to Information Act*.

41. **The Workers' Compensation Act** - The WCB shall perform employer clearance certificates and account reviews of the Supplier to ensure compliance with the requirements of the Workers' Compensation Act. The WCB may perform clearance certificates and account reviews to ensure continued compliance at any time during the Term. The WCB reserves the right to terminate any Agreement should the Supplier not comply with any requirement of the Workers' Compensation Act or be in default of premiums due under that Act.

Furthermore, the Supplier shall, at its own expense and without limiting its liabilities herein, **apply to the WCB for a deeming order** under section 16(2) of the Workers' Compensation Act, for any sub-contractor, other entity or individual (collectively referred to as the "Sub-contractor") performing any Work on WCB sites at the direction or for the benefit of the Supplier, where the Sub-contractor does not carry Workers' Compensation coverage, **deeming the Sub-contractor to be the worker of the Supplier**.

42. **Federal / Provincial Sales Taxes (GST / HST)** - The Supplier acknowledges that the WCB is not subject to the Goods and Services Tax (GST) or Harmonized Sales Tax (HST). Exempt #R124072513 RT0001.

43. **Governing Law** - The Agreement shall be governed by the laws of the Province of Alberta, and the forum for all disputes shall be the Courts of the Province of Alberta.

44. **Statutory and Floating Holidays** - For the purposes of this Agreement the following days shall be considered "Statutory Holidays." This list is conditional to any changes in Federal and Provincial legislation and includes any "Float" and/or "In Lieu" days as a result of a statutory holiday falling on a weekend day.

- New Year's Day
- Family Day
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- August Civic Holiday
- Labour Day
- National Day for Truth and Reconciliation
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day
- Christmas Float Day

Deliveries will not be accepted by the WCB on a Saturday, Sunday or Statutory Holidays. If any scheduled delivery day is a Statutory Holiday, that delivery shall be postponed to the next regular working day. All deliveries and pick-ups at a WCB location shall be between: 8:00 a.m. and 3:00 p.m. Alberta Time.

45. **Background Check** – Due to the nature of the services being provided at the WCB's offices, the WCB will require that any Supplier doing business with the WCB that are not escorted by WCB staff as outlined in the Personnel Security Clearance Procedure will be subject to the following background checks:

- a) Police Information Check / Criminal Record Check, from the appropriate law enforcement agency
- b) Driving Record
- c) Confirmation of professional designation (i.e. CA, CPA, LLB, etc.)

The WCB will only use the above information to determine the individual's suitability for work on the WCB's premises. All such information will be kept confidential.

46. **Personnel Security Clearance** - As part of maintaining a safe work environment for WCB staff, contractors, visitors and clients, each member of the Supplier's Personnel and sub-contractors doing business with the WCB requiring a building access card or working with WCB information will be required to present a current security clearance to

Corporate Security. The Supplier shall, at its sole expense, obtain a security clearance from a local law enforcement authority. Prior to any Supplier's commencement of work with or on behalf of the WCB, the WCB shall be provided with a current security clearance indicating that the individual has a 'clear' status for their criminal history.

Security clearance certificates/records shall be dated within the previous six (6) months of any Supplier's commencement of work for the WCB. The accepted security clearance certificate will be valid for a period of twelve (12) months and shall be retained by the WCB's Corporate Security office.

Alternatively, the WCB can assist the individual to obtain a security clearance certificate through Sterling (BackCheck). WCB's Security department can send a link from their BackCheck account for the individual to follow the online steps for completing the security clearance process online. The process includes a cost of twenty-five dollars (\$25.00) plus GST per request to be paid via a valid credit card. In most cases, the clearance results will be available within twenty-four (24) hours and will be automatically shared with WCB Security. The WCB reserves the right to grant or deny permission at its sole discretion.

The Supplier may request permission, in writing, for access by persons with a criminal record, provided that a copy of the criminal record is submitted along with the request. WCB may or may not grant such permission at its sole discretion. Supplier access to WCB premises and information will be restricted to:

- Persons for whom a "Clear" criminal history has been submitted to WCB; and
- Persons with a criminal record who have been granted special access permission, in writing, by WCB.

The WCB's refusal to grant access to any Supplier on account of a criminal record does not relieve any of the Supplier's obligations under the Agreement. The Supplier is solely responsible for any consequences, including additional costs or time delays, arising from a refusal by WCB to grant access to any individual.

If there are questions with regards to any of the above information, please contact the WCB's Corporate Security at 780-498-4822.

47. **General** - The paragraph headings shall not be considered in interpreting the text.