

Terms and conditions for vendors

In accordance with Section 5.9 of the District's Sustainable Procurement Policy, vendors have to meet the following terms and conditions to do business with The Corporation of the District of Oak Bay ("District").

1. Required documentation

Vendors must:

- Show the purchase order number on all related invoices, shipping papers, transportation bills, packages, packing lists and correspondence
- Render separate invoices for each shipment and delivery. Mail, email or deliver invoices to Accounts Payable. All invoices must bear a unique reference (invoice) number
- Include a packing list with each shipment with a unique reference (purchase order)
- Show serial numbers on the invoice, including serial numbers of trade-in equipment, where applicable
- Provide appropriate labels and material safety data sheets for Workplace Hazardous Materials Information System (WHMIS) regulated products. No product containing asbestos shall be supplied at any time without written authorization

If you fail to meet these requirements, the District may return the goods and/or invoices at your cost.

2. Offer and acceptance

The vendor, by the execution of this purchase order, or by the commencement of performance, enters in to a binding agreement of purchase and sale with the District of Oak Bay for the supply of the goods and services as listed on the face of this purchase order, subject to these terms and conditions.

The District's placement of this purchase order with the vendor is expressly conditioned upon the vendor'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 Vendor 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.

3. Payment

The District will pay the vendor after final acceptance of the goods and services, notwithstanding any previous passing of title.

4. Prices and terms of shipment

Unless otherwise noted on the purchase order:

- Prices and shipping terms are Delivered Duty Paid (DDP)
- Prices include all packing, handling, cartage, taxes, duties, and are otherwise all-inclusive

5. Delivery

The vendor must advise the District immediately if there is any shortage or delay of any kind when delivering goods and services.

If delivery of goods and services is not completed by the delivery date, the District reserves the right to terminate this purchase order in whole or in part and to purchase substitute goods and services elsewhere. The District also reserves the right to charge the vendor with any incidental or consequential damages that might be incurred.

6. Warranty

Without limitation to any additional warranties provided by the vendor, whether indicated on the face of the purchase order or otherwise provided, the vendor warrants that:

- All goods shall be of merchantable quality and free from defects in workmanship and materials
- All goods shall strictly conform to applicable samples, specifications and drawings
- All goods and services shall be fit for the purpose intended by the District
- All goods shall be free and clear of all liens, charges and encumbrances
- The goods and services comply with the standards set forth by applicable federal, provincial, municipal, and industry regulatory agencies
- The shipping and handling of any hazardous material will be in accordance with all applicable laws and regulations
- The goods and services shall comply with all applicable environmental protection laws and regulations
- Unless a longer warranty period is specified on the face of the purchase order, or is otherwise provided, the foregoing warranty shall be valid for one year from the date of acceptance of the goods and services by the District

If the District discovers that there are any weaknesses, deficiencies, failures, breakdowns, or deterioration in workmanship at any time prior to the expiration of any applicable warranty period, or if the goods and services do not conform to the terms and conditions of this purchase order, the District may:

- Require that the vendor promptly replace, redesign, or correct the defective and non-conforming goods and services at no expense to the District, or
- Replace or correct the defective goods and services, and charge the vendor with all of the expenses that the District incurs

The vendor must indemnify and save harmless the District, its members, officers, employees, assigns, agents, clients and the public from any liability, loss, cost and expense arising either directly or indirectly, from breach of any warranty given by the vendor hereunder.

7. Inspection

All goods and services are subject to inspection and approval by the District upon delivery.

The District reserves the right to refuse acceptance of goods and services which are not in accordance with our specifications, or not in compliance with the vendor's warranty (expressed or implied).

Goods not accepted will be returned to the vendor at the vendor's expense.

The District will not be deemed to have accepted goods and services by virtue of a partial or full payment for them and in no event unless and until the District gives the vendor written confirmation of acceptance following the District's receipt, inspection and approval of the goods and services.

8. Passage of title and risk

Despite any other term of this purchase order, risk of loss or damage to the goods and services will remain with the vendor until the receipt, inspection and written approval of the goods and services by the District.

9. Insurance

The vendor shall purchase and maintain insurance appropriate for a prudent supplier of the goods and services. The vendor shall provide proof of such insurance, if so requested by the District.

10. Indemnity

The vendor agrees to indemnify and save harmless the District, its members, officers, employees, assigns, agents and clients from any liability, loss, cost and expense arising directly or indirectly from claims, proceedings and investigations (“losses”) advanced by or on behalf of third parties to the extent such losses are caused or contributed to by any breach of this agreement by the vendor or negligence or willful misconduct by the vendor or other party for whom the vendor is responsible.

11. Waiver and limitations of liability

The vendor waives and disclaims any right of action or claim against the District (other than for payment of the purchase price set forth on the face of this purchase order) for any liability, loss, cost and expense arising directly or indirectly from its supply of the goods and services listed on the face of this purchase order.

If, regardless of the foregoing, the District becomes liable on any basis to the vendor, its liability shall not in the aggregate exceed the purchase price set forth on the face of this purchase order.

12. WorkSafeBC

The vendor must be registered with WorkSafeBC, and adhere to all WorkSafeBC practices relevant to the goods and/or services that will be delivered by the vendor under the terms of this purchase order.

13. District supplied property

Title to any items which have been supplied to the vendor by the District, or paid for by the District, in advance of delivery by the vendor of the goods and services ordered on the face of the purchase order, shall at all times be vested in the District.

The risk of loss for such items shall remain with the vendor until delivery to the District of such items, in the same conditions as originally received by the vendor.

The vendor agrees to be responsible for any and all loss or damage to the District’s property while such property is in its possession or control.

Technical information, specifications, drawings, designs, building and floor plans and other documentation relating to the business or activities of the District disclosed by the District to the vendor pursuant to this purchase order will be held in strict confidence by the vendor and will remain the exclusive property of the District. They may not be copied or reproduced without the express written consent of the District.

14. Intellectual Property

The vendor will defend, indemnify and hold harmless the District, its members, officers, employees, agents, clients, and the public from any expense, cost, loss, claim, damage, judgment or liability for infringement or alleged infringement of third party intellectual property rights including any patent, copyright, industrial design, trademark or trade secret with respect to the goods and services and their process of manufacture.

The vendor will, at its own expense, defend or assist in the defense of, at the District's option, any action of any alleged infringement.

15. Compliance with laws

The vendor 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.

16. No promotion of relationship

The vendor must not disclose or promote its relationship with the District, including by means of any verbal declarations or announcements, and by means of any sales, marketing or other literature, letters, client lists, press releases, brochures or other written materials without the express prior written consent of the District.

17. Assignment

This purchase order shall not be assigned or subcontracted by the vendor without the prior written consent of the District.

18. Changes, modifications or terminations

The District 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.

We also reserve 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 District unless in writing and signed by the District's authorized agent.