

**THE ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION
STANDARD TERMS & CONDITIONS
FOR
TENDERS, PROPOSALS, QUOTATIONS**

SCOPE:

These standard Terms and Conditions form a part of each offer and apply in like force to contracts or purchase orders for the purchase of materials, supplies, equipment and services. All offers submitted to the Town will bind bidders to the terms and conditions herein set forth, except as otherwise stated in the bid document.

DEFINITIONS:

TOWN:

The Town of Georgina

DIVISION:

The Purchasing Division of the Administrative Services Department

AGENT:

The Purchasing Agent (or his designate) of the Town of Georgina

BIDDER:

Any Individual, Firm, company or Corporation submitting an offer to the Town

BID DOCUMENT:

The documents comprising an invitation of offer for furnishing commodities or services

OFFER:

The offer of a bidder to furnish commodities or services in response to the Town's request

CONTRACT:

The acceptance by the Town of an offer by a bidder to furnish commodities or services.

CONTRACTOR:

Any Individual, Firm, Company or Corporation whom a contract is awarded against an offer.

SUBMISSION OF OFFERS:

1. Offers must be submitted on and in accordance with forms supplied by the Division. Telephone or telegraphic offers will not be accepted.
2. Offers must be submitted as indicated on the Town's form on or before the closing date and time specified.
3. Bidders are cautioned to verify their offers before submission. Offers received by the Town later than the time and date specified, cannot be considered. This applies to offers sent by mail or delivered in person.
4. All information required in connection with each item against which an offer is submitted must be given to constitute a valid offer.
5. Offers may be submitted for all or any part of total quantities or for any or all requirements listed in the bid document unless otherwise specifically indicated.
6. Unless qualified by the provision "**NO SUBSTITUTE**" the use of the name of a manufacturer, brand, make or catalogue designation in specifying an item does not restrict bidders to that manufacturer, brand, make or catalogue designation identification. This is issued simply to indicate the character, quality and/or performance equivalent of the commodity desired, but the commodity on which offers are submitted must be of such character, quality and/or performance equivalent that it will serve the purpose for which it is to be used equally as well as that specified. In submitting an offer on a commodity other than as specified, the bidder must furnish complete data and identification with respect to the alternate commodity he proposes to furnish. Consideration will be given to offers submitted on alternate commodities to the extent that such action is deemed to serve the best interests of the Town.

If the bidder does not indicate that the commodity he proposes to furnish is other than specified, it will be construed to mean that the bidder is to furnish the exact commodity as described in the bid document.

7. The Town is subject to payment of sales and excise taxes imposed by the Federal and Provincial Governments and such taxes must be shown separately on the bid sheet unless specifically indicated in the bid document.
8. Prices indicated shall be F.O.B. destination, unless otherwise noted.
9. In the event of any discrepancy between the unit price and the extension, the unit prices shall govern.
10. Bidder declares that the offer is not made in connection with any other bidder submitting an offer for the same commodity(ies) or services and is in all respects fair and without collusion or fraud.

11. Bid Deposit, if required, must be submitted in the form of a certified cheque in the amount of 10% of the total bid price and must be submitted as directed in the Information to Bidders. Failure to submit the bid deposit as required will jeopardize the consideration of the offer.
12. Performance surety binding the Contractor to fulfil the obligations of his offer as accepted, may be required. Such surety, when requested, shall be submitted in the form of a performance Bond or irrevocable letter of Credit satisfactory to the Town or certified cheque within fourteen (14) calendar days from date of request. Failure to comply within this time limit will be interpreted as inability to enter into contract and the bid deposit (if any) forfeited.

SAMPLES:

1. All specifications are minimum standards. Any samples submitted do not supersede specification for quality unless bid sample is superior, in which case deliveries must have the same identity and quality as the accepted sample.
2. Samples, when required, must be submitted strictly in accordance with instructions, otherwise the offer may not be considered. If samples are requested subsequent to opening of offers, they shall be delivered within three (3) working days following request unless additional time is granted. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating if the bidder desires their return, provided they have not been used or made useless by tests. Samples may be held for comparison with deliveries. Samples will be returned at the bidders risk and subject to his expense.
3. When indicated that an item to be purchased is to be equivalent to a sample, such samples will be on display in the Division, unless another location is specified. Failure on the part of the bidder to examine sample shall not entitle him to any relief from the conditions imposed by the offer.

AWARD:

1. The Town reserves the right to award by item, or part thereof, groups of items, or parts thereof, or all items, and to award contracts to one or more bidders; to reject any and all offers in whole or in part; to waive technical defects, irregularities and omissions if, in so doing, the best interests of the Town will be served.
2. The Town reserves the right to make awards within sixty (60) days from the date offers are opened, unless otherwise specified in the bid document, during which period offers shall not be withdrawn.
3. A bidder must be prepared, if required, to present evidence of experience, ability, service facilities and financial standing necessary to meet satisfactorily the requirements set forth or implied in the bid document.

4. Other things being equal, preference will be given to resident bidders of the Town and to commodities produced or manufactured in the Town.
5. Cash discount may be offered by the bidder for prompt payment of invoices, but such cash discount will not be taken into consideration in determining low bidder unless such discount is based on payment of invoice not less than ten (10) days after satisfactory delivery and/or receipt of correct invoice, whichever is later.

CONTRACT:

1. Each offer will be received with the understanding that the acceptance in writing by the Town of the offer to furnish all or any part of the commodities or services described therein shall constitute a contract between the bidder and the town, which shall bind the bidder on his part to furnish and deliver the commodities or services at the prices given and in accordance with conditions of said accepted offer and specification and STANDARD TERMS and CONDITIONS, and the Town on its part to take delivery of and pay for the commodities or services at the contract prices.
2. No alterations or variations of the Terms and Conditions of the contract shall be valid or binding upon the Town unless authorized in writing.
3. It is mutually agreed and understood that the contractor shall not assign, transfer convey, sublet or otherwise dispose of his contract or his right, title or interest therein, or his power to execute such contract, to any other person, firm, company or corporation without prior written consent of the Town.
4. The placing in the mail to the address given in his offer or delivery of a notice of award to a bidder will constitute notice of acceptance of contract. When so requested by the Town, the contractor shall execute a formal contract with the Town for the complete performance specified therein.
5. The contract may be cancelled by the Town upon non-performance of contract terms without any cancellation charges.
6. Failure of a contractor to deliver within the time specified or within reasonable time as interpreted by the Town or failure to make replacements of rejected commodities when so requested, will constitute authority for the Town to purchase in the open market to replace the commodities rejected or not delivered. The Town reserves the right to authorize immediate purchases in the open market against rejection on any contract when necessary. On all such purchases, the contractor agrees to promptly reimburse the town for excess costs occasioned by such purchases. Such purchases will be deducted from contract quantities. However, should public necessity demand it, the Town reserves the right to use or consume commodities

which are substandard in quality, subject to an adjustment in price to be determined by Town.

7. When commodities are rejected, same must be removed by the contractor from the premises of the Town within seven (7) calendar days after notification unless public health and safety require immediate destruction or other disposal of such rejected delivery in which case the Town may take such action as it deems necessary. Rejected items left longer than seven (7) calendar days will be considered as abandoned and the Town shall have the right to dispose of them as its own property.
8. The Town reserves the right to remove from eligibility to submit bids for an indeterminate period, the name of any bidder for failure to accept contract, or the name of any contractor for unsatisfactory performance of contract.

CONTRACT GUARANTEE:

Contractor hereby covenants and agrees:

- a. To perform the contract in accordance with the specifications and offer under which the contract is awarded,
- b. To save the Town, its agent, or employees, harmless from liability of any kind for the use of any composition, secret process, invention, article or appliance furnished or used in the performance of the contract of which the contractor is not the patentee, assignee or licensee,
- c. To guarantee his products against defective material or workmanship and to repair/ replace any damage or marring occasioned in transit. This guarantee is for a minimum of 12 months (unless otherwise specified in the bid document) from date of acceptance of the commodities or services,
- d. To furnish adequate protection from damage for all work and to repair damage of any kind, for which he or his workmen are responsible, to the premises or equipment, to his own work or the work of other contractors,
- e. To pay for all permits, licenses and fees, and to give all notices and comply with all by-laws and regulations of the Region of York and of the Town,
- f. To carry such insurance as required by the Town and to furnish satisfactory proof thereof when required by the Town.

DELIVERY:

1. Any equipment delivered must be standard new equipment of the latest model unless specifically requested in the bid document. Where any part of nominal appurtenances of equipment is not described, it shall be understood that all the equipment is not described, it shall be understood that all the equipment and appurtenances which are usually provided in the manufacturer's stock model shall be furnished.

2. Materials and supplies must be new items except as otherwise specifically stated in the bid document.
3. Delivery must be made as ordered and in accordance with the contract or purchase order. If no delivery instructions appear on an order, it will be interpreted to mean prompt delivery. Burden of proof of delay in receipt of order shall rest with the contractor.
4. Commodities shall be securely and properly packed for shipment according to accepted standard commercial practice, without extra charge for packing materials or containers to remain the property of the town unless otherwise stated in the bid document.
5. Where materials are furnished for a specified price per unit of weight, the Town reserves the right to require such materials to be weighed on scales designated by it, in which case payment shall be made on the basis of the net weight of the materials furnished.

INSPECTION & TESTS:

1. The inspection of all commodities and the making of chemical and physical tests to determine whether or not the specifications are being complied with shall be made in the manner prescribed by the Town.
2. Any item which fails in any way to meet the required specification or its intended use is subject to rejection or to be paid for on an adjusted price basis. The decision of the Town shall be final.

SAFETY:

1. Safety data sheet for all chemical items is required and it must be submitted promptly under separate cover to the Town.
2. Contractor ensures that all work shall be performed in accordance with the occupational health and Safety Act and Regulations for construction and the latest amendments thereof.
3. The Contractor shall provide all necessary traffic control persons and devices. Traffic control persons shall receive proper instructions, be suitably attired in traffic safety vests, and be capable of conversing with the public. Traffic control of this contract shall be in conformance with procedures as outlined in Temporary Conditions, Book 7, Ontario Traffic Manual, March 2001 published by the Ministry of Transportation.

4. The Contractor shall perform all work in compliance with the Occupational Health and Safety Act and Regulations (including WHMIS Regulations), Highway Traffic Act and Regulations, transportation of Dangerous Goods Act and Regulations, and all other applicable federal, provincial and municipal legislation. All Town By-laws, Policies and Regulations must be adhered to.
5. The Contractor assumes the role of constructor of the project defined by this contract, and will have the sole responsibility of providing supervision for and ensuring the safety of the Contractor's employees.
6. The Contractor will submit in writing details of the safety training and education the Contractor's employees have or will receive upon request by the Town.
7. A certificate of good standing from the Workers Compensation Board stating that the Contractor has complied with the requirements of the Workers Compensation Act as of the contract signing date is required. A similar certificate must be produced prior to the issuing of the completion payment Certificate attesting to the contractor's standing as of the contract completion date.

PAYMENT:

1. Where there is a question of non-performance involved, payment in whole or in part against which to charge back any adjustment required, will be withheld. In the event cash discount is involved, the withholding of payment as provided herein shall not deprive the Town from taking such discount.
2. All charges against a contractor shall be deducted from current obligations that are due or may become due. In the event that collection is not made in this manner the Contractor shall pay the Town, on demand, the amount of such charges.

FORCE MAJEURE:

Both the town and the contractor shall not be held liable for any losses resulting if the fulfilment of the terms of the contract shall be delayed or prevented by wars (whether war has been declared or not), acts of public enemies, strikes, fires, floods, acts of God, or for any other cause not within the control of the Contractor or the Town and which by the exercise of reasonable diligence, the Contractor or the Town is unable to prevent. However, lack of finances or shortage of labour is not Force Majeure. Should the performance of any contract be delayed or prevented as herein set forth, the party that encounters such difficulty agrees to give immediate written notice and explanation of the course and probable duration of any such delay to the other party.

SPECIAL PROVISIONS

Where special provisions are contained herein, it should be noted that these special provisions supersede any of the foregoing Tender Terms and Conditions.

ANY ALLEGED ORAL AGREEMENT OR ARRANGEMENT MADE BY A BIDDER OR CONTRACTOR WITH ANY EMPLOYEE OF THE DIVISION WILL BE DISREGARDED UNLESS SUBSEQUENT CONFIRMATION OF AUTHORIZATION IS DOCUMENTED IN AN ADDENDUM.