

PURCHASE TERMS AND CONDITIONS

1. **The Contract.** The goods, services, and deliverables to be supplied or performed by the Contractor are described in the Scope of Work, Contractor's proposal and/or in the Township's written request (collectively, the "**Work**"). The purchase contract is comprised of the following documents, where such documents exist: these Purchase Terms and Conditions, the Township's Bid request document (RFx) and all documents referenced the RFx, the Contractor's bid or proposal, and any additional terms the parties have agreed in writing to incorporate into the purchase contract. Together, these documents are the "**Contract**". In the event of a conflict or inconsistency among the documents, the provisions of the document that first appears on the foregoing list will apply. The Contract cancels and supersedes all prior agreements or communications on the subject matter.
2. **Contractor Personnel.** Contractor may engage others to assist it in the performance of the Work including subcontractors. Contractor will remain responsible for the acts and omissions of its employees, agents, suppliers, licensors and subcontractors ("**Contractor Personnel**") in the performance of Contractor's obligations.
3. **Delivery Dates.** Contractor must deliver and perform the Work on the mutually agreed delivery date. In the event of a delay, the Township may, acting reasonably, cancel the Township's order for the delayed Work without any Township liability for such cancellation.
4. **Shipping of goods (as applicable).** Where goods are being supplied, unless otherwise specified in another Township-issued Contract document, Contractor will ship the goods Delivery Duty Paid (DDP-Incoterms, 2018) (equivalent to FOB Destination), to the place of destination specified by the Township. Title to the goods will pass to the Township upon acceptance by the Township as set out in these terms.
5. **Inspection and acceptance of goods and deliverables.** Unless otherwise specified in a Township-issued Contract document, the Township shall have 15 business days following receipt to inspect and accept the delivered Work as being in conformance with the requirements of the Contract prior to having any obligation to pay for the Work. No title shall transfer, or payment be owed, for the Work where the Township rejects the Work.
6. **Invoicing and Payment.** The Town will issue payment for the Work within 30 calendar days from the later of the Township's receipt of a proper invoice for accepted Work. Invoices must be submitted to the Township of Scugog, 181 Perry Street, P.O. Box 780, Port Perry ON, L9L 1A7 to the attention of Accounts Payable quoting the purchase order number provided by the Township. In the alternative to mailing an invoice, an electronic invoice may be submitted to invoice@scugog.ca. Invoices must include Contractor's GST or HST and applicable PST registration numbers.
7. **Warranty.** Work must be of a quality at least equal to that generally accepted in the industry or profession for similar work. goods must be new and of current production and following the Township's acceptance, delivered Work must be and remain free from defects in design, material, and workmanship and conform to written specifications specified in the Contract for a period of 12 months or such other longer period as may be specified in the contract.
8. **Warranty Remedy.** Work discovered within 12 months of acceptance, or such longer term as may be specified in the in any other Contract document, as failing to comply with the warranties may be,

at no charge to the Township: (i) returned for a full refund or credit of amounts paid by the Township for the defective goods, (ii) repaired, (iii) replaced; (iv) re-performed by Contractor using alternate personnel if instructed by the Township with any shipping and transportation costs and risk of loss and damage to materials in transit borne by Contractor. Repaired and replaced goods or re-performed services shall be warranted as set forth in this Section.

9. **Termination.** The Township may at any time and for any reason, in whole or in part, cancel the Contract or suspend the performance of Work. Where performance of the Work is suspended by the Township for its convenience, the Work shall be deemed terminated for convenience on the 30th day of such suspension unless otherwise agreed by the parties in writing.
10. **Payments Due Upon Cancellation.** If the Township terminates the Contract for the Township's convenience, all Work completed by Contractor to the satisfaction of the Township, and all pre-authorized work in progress as of the date of cancellation will be paid for by the Township in accordance with the prices in the Contract provided that the Township shall in no event be liable to pay (a) a total aggregate amount under the Contract that exceeds the maximum Contract value or (b) for any lost profit associated with unperformed Work. The Township accepts that if work in progress is delivered to the Township in connection with a cancellation, it is delivered on an "as is" basis, and without any warranties from the Contractor.
11. **Liability.** Neither party shall be liable to the other party for lost profits, lost opportunity, special, consequential, incidental, exemplary or indirect costs from any cause whatsoever, even if advised of the possibility of such costs or damages.
12. **Indemnity.** Contractor shall indemnify and hold harmless the Township and its mayor, councillor, officers, agents, employees and volunteers from and against any third party action, claim, demand and related Township costs, charges, losses, and expenses (including legal, expert and consultant fees) for: (a) infringement of third-party intellectual property rights; or (b) for bodily injury (including death), personal injury and property damage to the extent resulting from act or omission of Contractor or Contractor Personnel; (c) negligent acts or omissions of Contractor or Contractor Personnel; and (d) Contractor's failure to make employee payroll deductions and pay remittances as required by law.
13. **Intellectual Property.** The Township is assigned all intellectual property rights in deliverables except to the extent the deliverables include proprietary items and materials that existed prior to the Contract issue date (such pre-existing works are the "**Pre-Existing Materials**".) The Township is granted a perpetual, paid-up, royalty free, irrevocable license to such Pre-Existing Materials to the fullest extent required by the Township to make use of the Work for the Township's internal purposes and for any additional purpose as may be expressly contemplated by the Contract. Contractor agrees to execute any assignment or any other document necessary to give effect to this section.
14. **Amending Notices.** Where the Contract specifies a contract term with optional extensions, the Township may extend the Contract by providing written notice of the extension to the Contractor prior to the expiration of the then applicable term. Contractor shall be deemed to accept the extension to the term if it does not object to the extension within 5 days of receipt.

15. **Compliance with laws and Township policies.** Contractor must comply with applicable Canadian federal, provincial, and local laws, regulations, and orders including those relating to workplace health and safety. Contractor must also comply with applicable Township policies, including policies dealing with employee workplace conduct, whether or not such policies expressly apply to contractors of the Township. Contractor will be responsible for its own contribution to the Workers Safety and Insurance Board (or equivalent).

16. **Governing Law and Competent Court.** The Contract is governed by the applicable laws of the Province of Ontario and Canada, without regard to conflicts of laws principles. The parties expressly exclude application of the United Nations Convention on Works for the International Sale of goods. All disputes between the Township and Contractor will be submitted to a competent court of the Province of Ontario and no other court.

17. **Miscellaneous.** Contractor is contracted as an independent contractor and not as agent, joint venturer or employee of the Township. Any delay by a party in the exercise of any right or remedy provided shall in no event be deemed to be a waiver of such right or remedy. To be valid, any waiver must be made in writing expressly referencing the Work. If any provision of the Work is held to be invalid or unenforceable by a judicial or regulatory authority, the meaning of such provision shall be construed, to the extent feasible, so as to render the provision enforceable. If no feasible interpretation would save the provision, it shall be severed, and the remainder shall not be affected and shall be enforced as nearly as possible according to its original terms and intent. The Township may assign its rights and obligations under the Work without requiring any notice to or consent from Contractor. Contractor may not assign or transfer any right or obligations hereunder without the prior written consent of the Township, which consent shall not be unreasonably withheld. The indemnity shall be in addition to and not in lieu of any insurance required to be provided by the Contractor in accordance with this Work. The warranty, indemnity and other provisions reasonably intended to survive termination or expiration of the Work shall survive.