



CONTRACTUAL CLAUSES PURCHASE ORDER – GOODS AND SERVICES

1. RULES OF INTERPRETATION

- (1) The contract consists of the following documents: If they are in any way ambiguous or contradictory, the following order of priority will prevail (in descending order of importance):
 - a) Purchase order issued by the Réseau de transport métropolitain (the “RTM”);
 - b) The contractual clauses herein;
 - c) The vendor’s offer, if accepted or recommended by the RTM.
- (2) The contract will come into force when the first of the following events occurs: (i) the date on which the vendor accepts the RTM’s purchase order; or (ii) when the vendor begins supplying the goods or providing the services.

2. INCLUSIVE PRICE

- (1) The contract price includes all costs related to the delivery of goods or the performance of services, including, but not limited to, the cost of obtaining all permits, authorizations and office supplies, along with administrative, telecommunications and data fees and travel costs.

3. PURCHASE ORDER

- (1) The RTM may return to the vendor any goods that exceed the quantities specified in the purchase order, at the vendor’s expense.
- (2) The prices set out in the purchase order will remain firm for the entire duration of the contract and do not include applicable sales taxes (GST, QST).

4. FULFILLMENT OF THE CONTRACT

General

- (1) The vendor must fulfill all the obligations and duties for which it is responsible under the Contract for the entire period of the contract, unless the latter is extended by the RTM.

Postponement and Interruption

- (2) The RTM has the right to postpone or interrupt the execution of the contract, in whole or in part, at any time. The RTM must carry out this postponement or interruption by issuing a written notice to the vendor. This notice must specify, inter alia and as applicable, the term of the postponement and its consequences, or the effective date of the interruption and its effects and duration, if this is known at that time.

Delays

- (3) The performance of services within the contract period is an essential condition to the conclusion of the contract. Consequently, the vendor is responsible for paying all expenses incurred due to any delays in supplying the goods or performing the services. The vendor must promptly notify the RTM of any delays and specify the revised delivery date.
- (4) If the RTM pays for any expense covered under the previous paragraph, it may deduct and withhold this amount from a payment owing to the Consultant.
- (5) If the performance of the contract is delayed, the RTM may compensate for the vendor’s failure using the required human resources, materials and equipment. The vendor is liable to the RTM for expenses incurred by the latter, and the RTM may recover the expenses in the manner described in the previous paragraph.



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5. VENDOR'S GENERAL OBLIGATIONS AND RESPONSIBILITIES

- (1) In addition to the vendor's obligations and responsibilities mentioned elsewhere in this contract and those inferred in practice or on site, the vendor is bound by the obligations and responsibilities listed below.

Confidentiality

- (2) The vendor guarantees that all information disclosed between itself and the RTM or any other person in connection with the contract will remain confidential.

Trade Practices

- (3) According to the *Civil Code of Québec*, the vendor must perform its obligations and responsibilities under the contract in accordance with trade practices.

Guarantee

- (4) The vendor guarantees the provision of the goods and services in accordance with the requirements set out in the contract, along with trade practices. The goods and services must be free of any defects and used solely for their intended purpose. When the quality of a good or service is not specified in the purchase order, the good must be new and the goods and services must be of the highest quality.

Liability

- (5) The vendor is liable for all damage of any nature whatsoever resulting from the fulfillment (including the negligent or faulty performance) of the obligations and responsibilities set out in the contract. More specifically, the vendor must defend the RTM in the case of any legal claims or lawsuits brought against it and indemnify the RTM if it is convicted.

Vendor's Consent

- (6) The vendor consents to the RTM withholding any property belonging to the latter, along with any sums of money owing to the RTM until all amounts receivable by the RTM have been paid in full.

Delivery

- (7) The vendor must pack the goods appropriately and include content descriptions and quantities on all shipments, along with the appropriate identification numbers and purchase order number. The RTM has the right to inspect all goods or services covered under this contract at any time and place. Barring any conflicting provisions on the purchase order, the vendor's obligations are subject to the Delivery Duty Paid (DDP, Incoterms 2010) clause at the delivery location specified in the purchase order, or, if there is no such indication, at the RTM's headquarters.
- (8) Upon delivering the goods, the vendor must provide the RTM with two (2) copies of the certificate of origin for all goods shipped to Canada from abroad. Invoices must be sent to the RTM in two (2) copies certified by the vendor in accordance with customs rules.

Reception

- (9) All goods or services delivered under this contract are subject to verification by the RTM. When contractual conditions are not met, final acceptance or rejection is at the RTM's discretion.
- (10) If the quantity or volume of goods delivered or the quality of services rendered is inconsistent with contract requirements, or if the quality or volume of the goods or the quality of the services rendered is not to the RTM's satisfaction, the RTM has the option to refuse these goods or services and to terminate the contract in accordance with the "Termination" clause herein, or to accept the goods or services. In the latter case, the acceptance of the goods or services by the RTM in no way constitutes a renunciation by the RTM of the redress procedures that it may exercise against the vendor.

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- (0) The vendor must provide the RTM with business and technical papers, along with all other relevant information related to the goods or services specified under the contract.
- (1) Upon providing notice, or for auditing purposes, the RTM may at any time request the originals or copies of any books, accounting records or other contract-related documents or visit the vendor's premises to audit them on site.

Insurance

- (2) For the entire duration of the contract, supplier shall purchase and maintain in full force and effect a commercial general liability insurance, including property and product liability and with limits of liability of 2,000,000 CAD for each occurrence, to cover any and all personal injury, property damage and loss of enjoyment of property arising from the goods, the services or from any acts or omission of the supplier, its directors, employees, agents, representatives or subcontractors.
- (3) In the event of a claim made under this insurance policy and for which a deductible applies, supplier shall be solely responsible for the full payment of any such deductible.

6. RTM'S RIGHTS

General

- (1) After providing notice or a formal demand that has not been answered or resulted in appropriate actions, the RTM has the right to enact the measures that the vendor failed or neglected to take at the latter's expense and risk. The RTM may withhold all necessary funds for this purpose from any amounts owing or that may soon be owing to the vendor.

Intellectual and Industrial Property

- (2) The RTM is and will remain the owner of all intellectual and industrial property rights pertaining to a tangible or intangible things created, produced or developed in the course of the execution of the contract (e.g. inventions, patents, copyrights, brands, etc.). The vendor is deemed to have totally and explicitly waived all recourse to rights that it may claim. However, the RTM will grant the vendor a limited user license for the sole purpose of carrying out the contract.

Termination

- (3) The RTM may terminate the contract at any time, in whole or in part, upon providing prior written notice to the vendor. In this case, the vendor must, upon receiving the notice, take all steps required to complete the contract in an orderly, timely and economical manner.
- (4) In the event of any such termination, the vendor will be entitled to progress payments in the amount of the goods or services provided on the termination date.

Liability Exclusion

- (5) The RTM is not liable for any indirect damage or harm experienced by the vendor as a result of the performance, non-performance or termination of the contract, including all loss of profits, revenues and business opportunities.

7. VENDOR DEFAULT

Default Situations

- (1) The vendor is considered to be at default if it does not comply with the contract, including all non-diligence in the performance of the work, or if it refuses, neglects or is unable to carry out the contract in accordance with the conditions and requirements set out under this policy.



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Early Termination of the Contract

- (2) If the vendor is at default, the RTM may terminate the contract, in whole or in part, by providing written notice, without the need to undertake any legal proceedings. The RTM may also sue the vendor for compensation for any damages suffered.

Remedies

- (3) None of the provisions, conditions or stipulations in the contract constitute a renunciation by the RTM of any recourse it may exercise for any reason whatsoever against the vendor or any other person in accordance with applicable laws.
- (4) No failure, neglect or delay by either party to exercise a right established under the contract may be construed to be a renunciation of the contract.

8. PAYMENT

- (1) Upon completion of the contract, the vendor must submit an invoice indicating the contract number, payment method and references to the time of payment, and join all required supporting documentation. If applicable, the invoice must be accompanied by an appendix containing details on the goods supplied and the services performed since the last invoice. Where applicable, the vendor must indicate its registration numbers on its invoices for the purpose of sales taxes.
- (2) The RTM will pay all undisputed portions of compliant invoices within thirty (30) days of receipt, as long as all the terms and conditions in the contract have been met.

9. GENERAL AND FINAL PROVISIONS

Subcontractors

- (1) Unless the vendor notified the RTM in the bid that it submitted prior to being awarded the contract, it may not subcontract out its obligations and responsibilities under this contract in whole or in part without the prior written consent of the RTM.
- (2) The vendor must subject all subcontracts to the provisions set out under this contract and take responsibility for their full coordination to ensure that all outsourced obligations and responsibilities are carried out appropriately.

Assignment of the Contract

- (3) The RTM has the right to assign the rights, obligations and responsibilities conferred to it under the contract without the need to obtain the vendor's consent.
- (4) The vendor may not assign any or all of its rights and obligations under the contract without prior written consent from the RTM.
- (5) The contract is binding between the parties hereto, along with their successors and

beneficiaries. ***End of the Contract***

- (6) Barring any specific provision in the contract, the latter will conclude once the vendor has carried out all of its obligations and responsibilities set out under the contract, including all of its guarantee-related obligations.

Performance Assessment

- (7) The RTM reserves the right to continuously evaluate the vendor's performance as goods are supplied or as services are provided, and at the end of the contract.

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Authorization to contract issued by the Autorité des marchés publics

- (8) Any supplier that wishes to enter into a public contract involving an expenditure equal or greater than the thresholds determined by the Government must have obtained an authorization to contract issued by the Autorité des marchés publics, in accordance with chapter V.2 of the *Act Respecting Contracting by Public Bodies* (RLRQ, c. C-65.1). Thus, when the contract to be concluded with the RTM requires the supplier to have such authorization to contract from the Autorité des marchés publics, the supplier undertakes to have obtained said authorization prior to the conclusion of the contract and to maintain it in full force and effect for the entire duration of the contract. Supplier shall also be responsible for ensuring that any of its subcontractors with which it has concluded a contract, whether directly or indirectly related to the performance of this contract and for which the expenditure is equal or greater than the thresholds determined by the Government, has obtained the required authorization to contract from the Autorité des marchés publics.

Audits

- (9) Upon providing notice or for auditing purposes, the RTM may at any time request the originals or copies of any books, accounting records or other contract-related documents or visit the vendor's premises to audit them on site.

Applicable Law and jurisdiction

- (10) This contract is governed by the applicable laws in the Province of Quebec and interpreted in compliance with these laws. All related claims, lawsuits or disputes will come under the exclusive jurisdiction of the Quebec courts in the Judicial District of Montreal.

Documentation and trainings related to Health and Safety

- (11) If the supplier is required to enter an RTM site, supplier agrees to comply with and will ensure that its employees, contractors and subcontractors comply with : a) all applicable laws and regulations and b) the following RTM documents: *Politique en matière de santé et de sécurité du travail d'exo*, *Directive concernant le port d'équipements de protection individuels*, *Directive concernant la déclaration d'un incident/accident de travail subi par un employé ou fournisseur* and *Directive concernant les consignes de sécurité sur les sites d'exo*, which can all be found (in French only) at : <https://rtm.quebec/fr/a-propos/fournisseurs/clauses-consignes>.
- (12) Any person wishing to access the RTM's railway right-of-way must have completed and successfully passed the trainings entitled " Occupational Health and Safety " and " Rail Safety " (including all updated versions) given by the RTM. The registration procedure for these trainings can be obtained by contacting « aidetactic@exo.quebec ».

Additional obligations

- (13) The supplier agrees to comply at all times with the terms of the following RTM documents, which can all be found (in French only) at : <https://exo.quebec/fr>
- a) Règlement sur la gestion contractuelle ;
 - b) Code de conduite des fournisseurs ;
 - c) Directive relative aux exigences environnementales applicables aux fournisseurs ;
 - d) Procédure en cas de rejet accidentel de contaminants dans l'environnement.