

Izaak Walton Killam (IWK) Health Centre
Purchase Order Terms and Conditions

1. PURCHASE ORDER NUMBER

- The purchase order number must appear on all packing/delivery slips, bills of lading, customs documents, invoices, correspondence, and any other documents relating to this purchase order.

2. ELECTRONIC PURCHASE ORDERS

- The IWK may use Electronic Data Interchange (EDI) to issue Purchase Orders to SUPPLIERS when both parties have mutually agreed upon a third party service provider. Either party may modify its election to use, not use or change a provider upon 30 days prior written notice to the other party. If either party receives a garbled transmission, the receiving party shall promptly contact the sender or third party network to reject the garbled transmission and to request a resend of such transaction.
- Unsigned electronic purchase orders are considered to be authorized legal documents when mutually agreed upon by the IWK and the SUPPLIER.

3. ORDER CANCELLATION

- Failure of the SUPPLIER to deliver any part of this purchase order by dates requested or as specified may result in immediate cancellation by IWK of any portion or of all of this order, without penalty.
- The IWK may terminate this purchase order and the contract resulting from its acceptance, in whole or in part, at any time and for any reason including for its own convenience, by providing the SUPPLIER with at least 30 days' prior notice of the termination.

4. NO SUBSTITUTES OR ALTERATIONS

- No substitutes for goods/services ordered, and no alterations to purchase order terms and conditions will be accepted without written agreement of the IWK.

5. PRICE & COST ITEMIZATION

- If no prices are specified, the price shall not exceed the lowest price charged by the SUPPLIER to the IWK for similar goods/services or the lowest price charged by the SUPPLIER for similar goods/services sold elsewhere, or the price last quoted to the IWK, whichever is lower.
- Goods whose prices differ from those shown on the purchase order must receive approval of IWK's purchasing department before they will be accepted.
- Unless otherwise stated the price shown on the purchase order must include all necessary costs Delivered Duty Paid (DDP) for packing, shipping, duties and any other expenses incurred while shipping and offloading goods to the point shown as the destination of the order.
- Items such as delivery, set-up fees, in-servicing, taxes, etc., are to be shown as separate line items.
- Note that all prices are in **Canadian Dollars** unless otherwise stated.

6. PAYMENT DISCOUNTS

- Discounts will be calculated from the time the goods/services are received by the IWK, or the date on which satisfactory invoices are received by the IWK, whichever shall be the later. IWK qualifies for government and educational discounts from various SUPPLIERS. All applicable discounts are to be identified in the price section.

7. HST & OTHER TAXES

- Where applicable HST and other taxes must be shown as a separate line item on the invoice.

8. PACKING LIST

- Packing lists must be in duplicate, and must accompany each shipment. The IWK purchase order number must appear on all packing lists.

9. MATERIAL SAFETY DATA SHEETS

- All hazardous products shipped against this Purchase Order must be correctly labeled according to the *Transportation of Dangerous Goods Act*. SUPPLIER must provide Material Safety Data Sheets (MSDS) for any hazardous good shipped for the first time to delivery point for this order, and also provide updated copies of MSDS when requested.

10. DELIVERY

- Time of delivery shall be the essence of this contract and failure of the SUPPLIER to deliver all or any part of the goods ordered at the time or times specified shall confer on the IWK the right to cancel the contract at its option without penalty.

11. SUPPLIER UNLOADING, PLACING OR INSTALLING RESPONSIBILITY

- Where the SUPPLIER is responsible for the unloading and placing or installing of material and has not so arranged, the IWK is hereby authorized to undertake this work at the expense of the SUPPLIER and the IWK will not be responsible for any damage to the material resulting from such action on the part of the IWK.

12. SHIPMENTS FROM OUTSIDE CANADA

- Properly certified customs invoices in two parts must be sent separately to the purchasing department at the time the shipment is made. Failure to provide required documentation may result in delay or return of the shipment by Canada Customs. On truck shipments, an extra copy of customs invoices should accompany the bill of lading.

13. VALUE DECLARATION

- The SUPPLIER will be held liable for any loss resulting from an improper value shown on shipping papers.

14. TITLE

- The receipt of the goods by the carrier shall not be deemed to be receipt thereof by the IWK. Title to the goods shall not pass to the IWK until goods are delivered at their destination

15. INSPECTION

- All goods delivered are subject to inspection and test within 10 business days after delivery at the IWK'S premises, and if unsatisfactory to IWK may be returned to the SUPPLIER, at the SUPPLIER'S expense upon receipt of return goods authorization, notwithstanding any intermediate payment by the IWK.

16. MATERIAL IN EXCESS

- Goods delivered in excess of amount called for in the purchase order may be refused and returned at SUPPLIER'S expense and additional work involving compensation above the contract price herein shall not be done except at SUPPLIER'S own expense.

17. STANDARDS and EQUIPMENT MANUALS

- IWK reserves the right to refuse acceptance of any or all electrical equipment or component part(s) which has not been tested, certified and labeled to meet the appropriate Canadian Standards Association (CSA) Standards by a recognized agency for hospital use.
- Purchase of medical electronic equipment is subject to inspection and acceptance by the IWK'S Clinical Engineering Department.
- Electrical or battery powered medical instrumentation must have "CSA approval" or be certified to all appropriate CSA Standards by a recognized agency.
- Electronic copies of Operating Instructions and Service/Repair Manuals must be included in each shipment. The appropriate cleaning procedures must be included with all equipment operating instructions.

18. MEDICAL DEVICE REGULATIONS

- IWK reserves the right to refuse acceptance of any or all medical devices and prosthesis which do not have a valid medical device license as set forth by the Health Protection Branch of Health Canada. The manufacturer must meet the following conditions, as applicable, providing license numbers where requested:
 1. If the equipment is classified as Class I device the SUPPLIER must hold a current Medical Establishment License.
 2. If the medical equipment is classified as Class II, III or IV the SUPPLIER must hold a current establishment license and the device must have an active Medical Device License for each piece of equipment indicated in this system and must be prepared to provide a copy of the active Medical Device License upon request.

19. SPECIFICATIONS

- If the Order refers to plans or specifications, the same shall be deemed to be incorporated in and be a part of this Order and of the contract, and any plans, blueprints, patterns, etc., furnished by the IWK to the SUPPLIER shall not be published or disclosed by SUPPLIER to any other person or corporation and shall be returned to the IWK upon completion of the order.

20. ASSIGNMENT & SUBCONTRACTING

- No assignment and no subcontracting of the contract shall be made by the SUPPLIER without the written consent of the IWK.

21. WARRANTY

- All equipment must carry at least a one year warranty unless otherwise specifically stated on the Purchase Order, that commences when incoming inspection is passed, or at time of installation, whichever is later. Specific warranties in excess of one year shall survive this clause. No other rights or remedies provided by law are waived.

22. ENTIRE AGREEMENT & MODIFICATION

- Subject to article 19. Specifications, this Order is expressly limited to the terms and conditions contained herein, and any existing written and properly executed contract for the named product or service between the parties. The terms of the properly executed purchase contract shall govern over any conflicting terms contained in this Order.
- Any additional, conflicting, or different terms or conditions set forth in any invoice, in any acknowledgment of this order, or in any document other than this order and any properly executed purchase contract between the parties, shall have no effect.
- No amendment, agreement or other understanding in any way modifying the conditions of this contract will be binding on the IWK unless made in writing and signed by IWK's authorized representative.

23. PLACE OF CONTRACT

- This Order and the contract resulting from its acceptance shall be construed according to the laws of the Province of Nova Scotia.

24. INSURANCE

- SUPPLIER represents and warrants to IWK that it has in place with reputable insurers such insurance policies in coverage amounts that would be maintained by a prudent supplier of goods and services similar to those provided hereunder, including, as applicable, professional errors and omissions liability insurance and comprehensive commercial general liability insurance (including product liability coverage, all-risk contractors' equipment insurance, and automobile liability insurance). In addition, SUPPLIER will maintain, at its own cost, such insurance policies and coverages as may be reasonably required by IWK from time to time. SUPPLIER will promptly deliver to IWK, as requested, written proof of such insurance. If requested, IWK will be named as an additional insured under any such policies. If requested by IWK, such insurance will provide that it cannot be cancelled, or materially changed so as to affect the coverage provided under this Agreement, without the insurer providing at least 30 days prior written notice to IWK.

25. INDEMNIFICATION

- The SUPPLIER shall indemnify and hold harmless IWK, its employees, servants and agents from and against all damages, costs, loss, expenses (including legal fees and other expenses), claims, actions, suits or proceedings of any kind or nature (including intellectual property claims, or privacy or cybersecurity breaches) which they, or any of them, may at any time incur or sustain as a result of or arising out of any act, omission or negligence of the SUPPLIER, or any of its employees, servants, agents, or subcontractors, in the performance of this Order, including without limitation, any injury or death to persons, or loss of or damage to property, or alleged infringement of intellectual property right by the goods/services provided hereunder.

26. NO PENDING CLAIM:

- It is a condition precedent to IWK'S acceptance of goods/services that the SUPPLIER confirm it has no outstanding or pending litigation, action, claim, demand, or cause of action against the IWK which in any way relates to the subject matter of the Purchase Order or which relates to the supply of goods and services to the IWK, and that the SUPPLIER has no pending litigation, action or claim against it with respect to the goods/services which are the subject of this Order.

27. INDEPENDENT CONTRACTOR & LIABILITY

- In accepting this order, SUPPLIER agrees that SUPPLIER is an independent contractor for all intents and purposes and that the SUPPLIER will protect and save harmless the IWK from any claims or damages arising from injury to SUPPLIER'S employees from any cause whatsoever while in and about IWK's property and SUPPLIER further agrees to carry worker's compensation insurance necessary under Provincial or Federal statutes for said employees. SUPPLIER also agrees that none of the individuals whose compensation for services is paid by the SUPPLIER shall be deemed to be employed by the IWK for the purpose of any tax or contribution levied by Federal or Provincial or Municipal law.

28. FORCE MAJEURE

The SUPPLIER shall not be liable for failure or delay in delivering the goods if such failure or delay is a direct result of any act of God, labour dispute or other cause beyond the control of the SUPPLIER provided that the SUPPLIER shall immediately notify the IWK upon happening of any such cause. If such failure or delay in delivery shall continue for a period exceeding seven (7) days, the IWK may cancel this order.

29. PRIVACY AND CONFIDENTIALITY

- The SUPPLIER acknowledges all information provided to it by IWK hereunder, or to which the SUPPLIER has access as a result of providing the goods/services is confidential information. Without limiting the generality of the forgoing, confidential Information shall include information that is business information of the IWK, and personally identifiable about an employee, patient, or customer of IWK. Unless required by law or an order of a court of competent jurisdiction, such Confidential Information shall not, either during the Initial Term or Renewal Term, or at any time thereafter, be disclosed by the SUPPLIER, without the prior written consent of IWK, to any third party or to any employee(s) of the SUPPLIER, other than its employees who are directly involved in providing the good/services.
- The SUPPLIER shall exercise all reasonable precautions (and in no event less than those generally used in the health care industry) to protect Personal Information/Personal Health Information from unauthorized access, disclosure, copying, use or modification, storage and retention and, in any event, treat any information which is "personal information" or "personal health information" as defined in the *Personal Information Protection and Electronic Documents Act* (Canada), the *Freedom of Information and Protection of Privacy Act* (Nova Scotia) and the *Personal Health Information Act* (Nova Scotia), as amended, in accordance with these Acts. The SUPPLIER further agrees:
 - a. to use the Personal Information or Personal Health Information for the sole purpose of providing goods/services to IWK pursuant to this Order and not to use the Personal Information and Personal Health Information for its own benefit and not to disclose the Personal Information or Personal Health Information or the knowledge of the existence of the Personal Information and Personal Health Information and use by the Supplier to any other third parties, without IWK's prior written consent;
 - b. upon request of IWK to cease any and all use of the Personal Information or Personal Health Information and to return or destroy the Personal Information and Personal Health Information in a manner agreed to by IWK; and
 - c. upon reasonable request of IWK, to provide information pertaining to the Supplier's handling of Personal Information and Personal Health Information demonstrating that the Supplier is compliant with this Agreement and relevant legislation regarding Personal Information, including, but not limited to:
 - i. the SUPPLIER's privacy policy; and
 - ii. information regarding any complaints against the SUPPLIER to federal or provincial privacy commissioners or provincial departments of health.
- The IWK is a public body subject to the provisions of the *Freedom of Information and Protection of Privacy Act* (Nova Scotia) and therefore may be required to disclose this order or portions thereof.

30. CONFORMITY TO APPLICABLE LAWS & WCB

- The SUPPLIER shall comply with all applicable laws governing the conduct of its business and the provision of the Services to IWK. The SUPPLIER agrees to maintain in good standing all licenses, permits, registrations or authorizations it is required to obtain in order to lawfully provide the Services in Nova Scotia.
- Without limiting the foregoing, professional personnel performing any part of the Services on behalf of the SUPPLIER shall be required to comply with all applicable professional registration or licensing requirements in effect in Nova Scotia at the time such Services are being performed.
- The SUPPLIER shall promptly provide to IWK, upon request, copies of all permits, licenses, authorizations and registrations that it is required to obtain in order to provide the Services, as well as evidence of the Supplier's compliance with laws applicable to the performance of the

Services, including without limitation, the *Workers' Compensation Act (Nova Scotia)* and the *Occupational Health and Safety Act (Nova Scotia)*.

- The SUPPLIER must conform to all the requirements of Federal, Provincial, and Municipal laws, by-laws and regulations applicable to the performances of the work to be done under this order. It is further understood and agreed that IWK may withhold any and all payments due under this order until CONTRACTOR or SUPPLIER shall furnish to him satisfactory evidence that all bills for labour, material, etc. supplied to CONTRACTOR or SUPPLIER on this order have been paid in full.

31. CRIMINAL RECORD CHECKS

- Supplier (including its staff/subcontractors) may require long term and broad access to IWK facilities. Supplier is required to take all reasonable steps to ensure its staff and sub-suppliers/sub-contractors are supervised and do not pose a risk to IWK property, staff or patients. Should a Supplier be or become aware of any criminal history, conviction, or incident which could pose such a risk, the Supplier is required to consult the IWK before assigning and/or continuing to assign the staff to work at the IWK. The IWK has sole discretion in determining who has access to its facilities.

32. GENERAL

- All paragraph headings contained in this agreement are for identification purposes only and shall not affect the interpretation hereof. Clerical errors are subject to correction.