



**The St. Lawrence
Seaway Management
Corporation**

**Corporation de Gestion
de la Voie Maritime
du Saint-Laurent**

TERMS AND CONDITIONS FOR CONSTRUCTION PURCHASE ORDERS

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1 Interpretation

1.1 Unless the context otherwise requires,

1.1.1 «Owner» means The St. Lawrence Seaway Management Corporation;

1.1.2 «Construction Purchase Order» means this document and all other documents it refers to, as well as any written specifications, instructions, drawings, designs by the Owner for the carrying out of the Construction Purchase Order;

1.1.3 «Work», means the total construction and related material and services required by the Construction Purchase Order;

1.1.4 «Finished work» means the supplies, projects or other work completed in accordance with the provisions of the Construction Purchase Order after it has been accepted by the Engineer;

1.1.5 «Engineer» means the person designated as such by the Owner and any person acting on behalf of the Owner as the Engineer under the Construction Purchase Order;

2 Changes in Scope, Assignment and Subcontracting

2.1 The Contractor shall not increase or decrease the scope of work covered by this Construction Purchase Order without the prior written consent of the Owner. If the Owner at any time during the progress of the work requires any alteration or addition or omission from the work contracted for, it shall be done, and in so doing it shall not affect or cancel this Construction Purchase Order and the cost thereof shall be added to or deducted from the Construction Purchase Order price as the case may be, upon reasonable notice.

2.2 The Contractor shall not assign the Construction Purchase Order without the prior written consent of the Engineer and any assignment made without such consent shall be of no effect.

2.3 The Contractor may subcontract such portions of the work as is customary in the carrying out of similar work, but must first provide the Engineer with a list of the subcontractors. The Engineer may, within six days of receiving the above list, reject the any intended subcontractor.

2.4 Notwithstanding Paragraphs 2.2 and 2.3, no assignments or subcontracting shall relieve the Contractor from any of its obligations under the Construction Purchase Order or impose any liability upon the Owner to an assignee or subcontractor.

2.5 The Contractor shall preserve and protect the rights of the parties under the Construction Purchase Order with respect to work to be performed under subcontract, and shall:

2.5.1 Enter into contracts or written agreements with subcontractors and suppliers to require them to perform their work as provided in the Construction Purchase Order;

2.5.2 Incorporate the terms and conditions of the Construction Purchase Order into all contracts or written agreements with subcontractors and suppliers; and

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2 Changes in Scope, Assignment and Subcontracting (Cont'd)

- 2.5.3 Be as fully responsible to the Owner for acts and omissions of subcontractors, suppliers, and of persons directly or indirectly employed by them as for acts and omissions of persons directly employed by the Contractor.

3 Conduct of the Work

- 3.1 The Contractor agrees to carry out the work diligently and to provide efficient supervision and inspection thereof and warrants, without restricting the generality of the foregoing, that the work is of proper quality, material and workmanship and in full conformity with the specifications, drawings, models or samples, if any, and is fit for the purpose intended.
- 3.2 Any damage to the work before delivery or completion of the work under the Construction Purchase Order shall be borne by the Contractor and all work under the Construction Purchase Order shall be done at Contractor's risk until completion.
- 3.3 No materials or parts shall be used, processed or delivered until accepted by the Engineer.
- 3.4 The Owner and the Engineer shall have access to the work and work sites at all times and the Contractor shall provide, at his own expense, assistance and facilities as may reasonably be required for the carrying out of inspections and tests.

3 Conduct of the Work (Cont'd)

- 3.5 The Contractor shall only be entitled to payment once the work has been finished in accordance with the terms of the Construction Purchase Order.

4 Specifications, Drawings and Other Documents

- 4.1 All specifications, drawings, and other documents provided by the Owner to the Contractor in connection with the Construction Purchase Order shall be used by the Contractor solely for the purpose of carrying out the work and for no other purpose and shall remain the property of the Owner and be returned to the Owner upon request.

5 Personal Information and Privacy

- 5.1 With respect to Personal Information, the Contractor shall comply with the *Personal Information Protection and Electronic Documents Act, 2001* (PIPEDA) and any other applicable laws or regulations concerning the protection of privacy. The Owner will handle any Personal Information provided by the Contractor in the course of providing services to the Owner in accordance with the Owner's Privacy Policy and the PIPEDA.

6 Acceptance of work and Delivery

- 6.1 The Engineer will accept the work and will have full power to reject or refuse any work, parts or materials that he or she considers not in accordance with the requirements of the Construction Purchase Order. The Engineer will also be the sole judge as to the meaning or intention of the specifications.

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7 Warranty

- 7.1 Without restricting any other term of the Construction Purchase Order or any conditions, warranty, or provision implied or imposed by law, the Contractor shall, if requested by the Owner to do so at any time within twelve months from date of delivery as specified in the Construction Purchase Order, repair or replace, at its own expense, any work and each article or part and any material included in the work which becomes defective or fails to conform to Construction Purchase Order requirements as a result of faulty or inefficient manufacture, material or workmanship, such replacement to be made by delivering the replaced work or material to the delivery point set out in the Construction Purchase Order.

8 Time of Essence

- 8.1 Time shall be deemed to be of the essence of the Construction Purchase Order, provided that the time for completing any of the work which has been or is likely to be delayed by reason of force majeure or other cause beyond the reasonable control of the Contractor shall be extended by a period equal to the length of the delay so caused, provided that prompt notice in writing of the occurrence causing or likely to cause such delay is given to the Owner. The Engineer may cancel the Construction Purchase Order if the Contractor fails to comply with this requirement.

9 Labour Laws

- 9.1 The Contractor shall comply with all applicable labour laws, and with all health conditions and requirements, from time to time applicable to the work.

10 Members of the House of Commons and Senate Not To Benefit

- 10.1 As required by Law no Senator or member of the House of Commons shall be admitted to any share or part of the Construction Purchase Order or to any benefit to arise there from.

11 Notice

- 11.1 Any notice to the Contractor hereunder shall be effectively given if sent by letter or by facsimile addressed to the Contractor at his address as given in the Construction Purchase Order or, if no address is so given, at his address as shown by the records of the Owner. Any notice so given shall be deemed to have been received by the Contractor at the time when in the ordinary course such letter or facsimile should have reached its destination.

12 Indemnification

- 12.1 The contractor shall defend, indemnify and save harmless the Owner, its representatives and Her Majesty in Right of Canada harmless from and against all claims, demands, losses, costs of any nature including judicial and extra-judicial costs arising from any legal action, damages, actions, suits, or proceedings and by whomever made, brought or prosecuted and in any manner based upon, occasioned by or attributable to any injury to or death of a person or damage to or loss of property resulting from any imprudence or lack of skill or any wilful or negligent act, omission or delay on the part of the contractor, his representatives, employees, servants, agents, suppliers, Subcontractors and their subcontractors, or any other person under his jurisdiction in performing the work or as a result of the work.

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12 Indemnification (Cont'd)

- 12.2 The Contractor shall also defend, indemnify and save harmless the Owner, its representatives and Her Majesty in Right of Canada from and against all costs, charges and expenses whatsoever that the Owner sustains or incurs in or about all claims, actions, suits and proceedings for the use of the invention claimed in a patent, or infringement or alleged infringement or any patent or any registered industrial design or any copyright or any other kind of intellectual property resulting from the performance of the Contractor's obligations under the contract, and in respect of the use of or disposal by the Owner of anything furnished pursuant to the Construction Purchase Order.
- 12.3 The Contractor's liability to indemnify or reimburse the Owner under the Construction Purchase Order shall not affect or prejudice the Owner from exercising any other rights under law.

13 Insurance Conditions

- 13.1 The Contractor must provide the Owner with a "Notice of Compliance" prior to accessing the work site and the Owner's Insurance Conditions "I" apply to this Construction Purchase Order.

14 Security Requirements During the Navigation Season

- 14.1 The following security requirements shall apply during the navigation season for all work on the Owner's property:
- 14.1.1 The Contractor shall supply a list of all personnel to be employed on site.
 - 14.1.2 All Contractor personnel are subject to verification and identify check.
 - 14.1.3 The Engineer will supply Temporary Access Badges for all Contractor personnel.
 - 14.1.4 All Contractor personnel shall wear Temporary Badges while on site.
 - 14.1.5 Temporary Badges shall be visible at all times.
 - 14.1.6 Temporary Badges shall be returned to the Engineer at the completion of the work.
 - 14.1.7 The Contractor is responsible for ensuring that:
 - 14.1.7.1 All Contractor personnel are reliable and trustworthy individuals;
 - 14.1.7.2 All personnel wear their Temporary Badges at all times while on the Owner's property.
 - 14.1.8 In addition to the above requirements, all Contractor personnel accessing the restricted areas, as determined by the Engineer, will be required to wear personal identification with a photograph.

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15 Records to be Kept by Contractor

15.1 The Contractor shall

15.1.1 maintain full records of his estimated and actual cost of the work together with all tender calls, quotations, contracts, correspondence, invoices, receipts and vouchers relating thereto;

15.1.2 make all records and material referred to in 15.1.1 available to audit and inspection by the President and the Chief of Audit of the Owner or by persons acting on behalf of either or both of them, when requested;

15.1.3 allow any of the persons referred to in 15.1.2 to make copies of and to take extracts from any of the records and material referred to in 15.1.1; and

15.1.4 furnish any person referred to in 15.1.2 with any information he may require from time to time in connection with such records and material.

15.2 The records maintained by the Contractor pursuant to 15.1.1 shall be kept intact by the Contractor until the expiration of two years from date of delivery as specified in the Construction Purchase Order or until the expiration of such other period of time as the President may direct.

15.3 The Contractor shall cause all subcontractors and all other persons directly or indirectly controlled by or affiliated with the Contractor and all persons directly or indirectly having control of the Contractor to comply with 15.1 and 15.2 as if they were the Contractor.