

GENERAL TERMS AND CONDITIONS

Competitive Solicitation

NOTE:

These General Terms and Conditions will apply only to those solicitation documents that reference them specifically.

By submitting a Response to Manitoba, the Respondent agrees to these General Terms and Conditions. Failure to comply with these Terms and Conditions could result in disqualification.

In the event of any conflict or disagreement between these General Terms and Conditions herein and the solicitation documents, the solicitation documents have precedence and will be assumed to be correct.

These General Terms and Conditions are intended to cover a wide range of provincial procurements, including goods and services. As such, not all clauses will be applicable in all situations. Should Respondents have questions regarding any of these General Terms and Conditions, they must contact the person named in the solicitation document.

INDEX

1. [Definitions](#)
2. [Terms](#)
3. [Federal Taxes](#)
4. [Provincial Taxes](#)
5. [Competitive Solicitation Completion](#)
6. [Competitive Submissions](#)
7. [Amending Of Responses And Irrevocability](#)
8. [Late Responses](#)
9. [Acceptance Of Response Conditions](#)
10. [Right To Reissue Competitive Solicitation Document](#)
11. [Errors And Omissions](#)
12. [Alterations/Qualifications Of Responses](#)
13. [Authorized Vendor](#)
14. [Specifications/Quality](#)
15. [Evaluation Of Goods](#)
16. [Product Certification](#)
17. [Electrical](#)
18. [Material Safety Data Sheets \(MSDS\)](#)
19. [Warranty](#)
20. [Purchaser Property](#)
21. [Delivery](#)
22. [Acceptance Of Bid/Quotation](#)
23. [Time Is Of The Essence](#)
24. [Acceptance/Inspection Of Goods](#)
25. [Conflict Of Interest](#)
26. [Disclosure Of Information](#)
27. [Reciprocity](#)
28. [Environmental Preference](#)
29. [Assignment](#)
30. [Subcontracting](#)
31. [Responsibility And Liability](#)
32. [Governing Law](#)
33. [Termination](#)
34. [Government Funded Bodies](#)

1.0 DEFINITIONS

Competitive Solicitation:

Competitive Solicitation is defined as the document used by Manitoba to solicit market responses to a specific requirement. Types of documents used include: Request for Quotation (RFQ), Request for Proposal (RFP), Request for Tender (RFT) and Request for Standing Offer (RFSO).

MANITOBA:

Refers to the Government of Manitoba or the purchaser of a department or branch of the Government of Manitoba that requires the goods and/or services listed in the Competitive Solicitation.

Manitoba Procurement Organization (MPO):

Refers to the Manitoba Procurement Organization that has issued the Competitive Solicitation and is listed in the Competitive Solicitation document.

RESPONDENT:

Refers to the person or company that obtains a copy of the Competitive Solicitation for the purpose of submitting a Response to provide the goods and/or services.

RESPONSE:

Refers to the submission in the form of bid, proposal, quotation or offer made by a Respondent pertaining to this Competitive Solicitation.

VENDOR:

Refers to the person or company contracted by Manitoba for the supply of goods or services.

PURCHASE ORDER/CONTRACT

Refers to the Purchase Order/Contract issued by Manitoba to the vendor as written acceptance of their Response to supply the goods and/or services.

2.0 TERMS

- 2.1 The standard terms and conditions listed in the Competitive Solicitation document will apply to all Responses and Purchase Order/Contract(s) except where special requirements are stipulated elsewhere in the solicitation document, in those cases the special requirements will also apply.
- 2.2 Failure to comply with the standard terms and conditions or any other terms and conditions listed in the Competitive Solicitation document may result in rejection of the Response. Manitoba or the MPO shall be the sole judge as to whether a Response is accepted or rejected. A decision to reject a Response is final.
- 2.3 The words “must” and “will” mean a requirement is mandatory and must be met in order for the Response to receive consideration.
- 2.4 All information requested in the Competitive Solicitation documents must be provided by the Respondent. Responses not containing the required information must be rejected.

3.0 FEDERAL TAXES

- 3.1 GST: Goods and Services Tax are to be shown as an extra and items are to be marked taxable or tax exempt.
- 3.2 EXCISE TAX: Federal Excise Tax to be included where applicable.
- 3.3 DUTY: Federal duty charges are to be included on imported items unless an exemption is shown on the Competitive Solicitation document.

4.0 PROVINCIAL TAX

- 4.1 The Province of Manitoba is subject to the Manitoba Retail Sales Tax. This tax must be shown as an extra on the Competitive Solicitation document.

5.0 COMPETITIVE SOLICITATION COMPLETION

- 5.1 The Respondent should obtain the “official Competitive Solicitation” directly from www.MERX.com. The Province of Manitoba, may at any time and without notice waive this requirement depended on extenuating circumstances.
- 5.2 The Respondent must be responsible for all costs of preparing its Response.
- 5.3 Responses must be submitted on the official Competitive Solicitation document provided unless

otherwise stipulated or as directed. Failure to complete the Response submission or include all information and documents requested may result in rejection of a Response submission.

- 5.4 The Respondent must be solely responsible for obtaining and verifying all information including any addenda that may be necessary in order to understand the requirements of the Competitive Solicitation and submit a Response in accordance with the terms and conditions of the Competitive Solicitation document. No claim will be entertained or allowance made for the failure of a Respondent to obtain such information or make such investigations or to obtain any addenda or amendments before the Competitive Solicitation closing date and time.
- 5.5 All Responses should be prepared in a legible manner. Non legible Responses may result in rejection of a Response submission.
- 5.6 Manufacturer's name and catalogue numbers should be shown for each item offered, where applicable.
- 5.7 Extras, such as charges for handling or crating, must be clearly shown, if applicable.
- 5.8 The prices quoted should be extended and totalled. In the case of mathematical errors, the unit prices will govern.
- 5.9 Manitoba prefers to receive Responses in Canadian Funds. If the pricing offered is quoted in a currency other than Canadian then the currency must be clearly identified on the Response.
- 5.10 The Respondent warrants it has the right to offer the goods for sale in Manitoba.
- 5.11 The Respondent warrants that there are no patents, trademarks or other rights restricting use, repair or replacement of the material furnished or any part thereof and hereby agrees to indemnify and save harmless the Province of Manitoba, its employees and agents from and against all claims, demands, losses, costs, damages actions, suits or other proceedings by whomsoever made, filed or prosecuted in any manner by reason of such use, repair or replacement of the materials being a violation of any patent, trademark or other right.
- 5.12 Respondent must hold harmless Manitoba, its employees and agents from any and all third party claims, demands, or actions for which Respondents are legally responsible, including those arising out of negligence, wilful harm or crimes by Respondents or the Respondents' employees or agents.
- 5.13 Respondents must be responsible for loss or damage to the real and personal property of Manitoba where Respondents are legally responsible, including negligence, wilful harm or crimes of the Respondent, its employees or agents.

6.0 COMPETITIVE SOLICITATION SUBMISSIONS

- 6.1 The Response must be signed by a representative of the Respondent with the authority to bind the Respondent. The name and title of the representative signing the Response should also be printed below their signature.
- 6.2 Responses must be received at the Submission Address indicated in the solicitation document no later than the closing date and time.
- 6.3 Submission Address for Competitive Solicitation is MERX Electronic Bid Submission at www.MERX.com.
- 6.4 Responses must be uploaded in PDF format under appropriate solicitation, with the required signature in the attachment(s), through MERX Electronic Bid Submission. File uploads approaching 100 Megabytes in size may be rejected by the MERX system. That said, there is no limit to the number of files a Respondent may submit. If for any reason size does not permit sending a Response in one upload, a Respondent may submit its Response in multiple submissions, with the files separated as required.
- 6.5 Upon submitting a Response by upload to MERX, Respondents will receive an E-bid Confirmation Number receipt that the Response was uploaded. Respondent not receiving a confirmation number upon submission should contact MERX Technical Support at 1-800-964-MERX(6379), or email merx@merx.com.
- 6.6 While Manitoba allows for electronic bid submissions, the Respondent bears all risk associated with submitting its Response by electronic submission, including but not limited to delays in transmission between the Respondent's computer and MERX system.
- 6.7 It is the Respondent's sole responsibility to ensure that their Response and all attachments are received at the Submission Address before the closing date and time. Responses received after the closing date and time will be rejected.

7.0 AMENDING OF RESPONSES AND IRREVOCABILITY

- 7.1 Respondents may amend or withdraw their Responses prior to the closing date and time by modifying or deleting and re-submitting their Response through the MERX system in accordance with the instructions on the MERX website.
- 7.2 After the closing date and time, Responses received will be irrevocable.

8.0 LATE RESPONSES

- 8.1 Responses received after the closing date and time will be rejected.

9.0 ACCEPTANCE OF RESPONSE CONDITIONS

- 9.1 A Respondent should clearly understand that by submitting a Response, the Respondent agrees that its Response or any part of its Response is subject to the conditions contained herein, in addition to any other terms and conditions set out in the Competitive Solicitation document.
- 9.2 No Response will be considered from a Respondent where Manitoba, in its sole discretion, determines that a potential conflict of interest exists. No Response will be considered that is in any way conditional or that proposes to impose conditions on Manitoba that are inconsistent with the requirements of the Competitive Solicitation and the terms and conditions stipulated therein.
- 9.3 The submission of a Response, the receipt of a Response by Manitoba and the opening of a Response, or any one of those, does not constitute acceptance, in any way whatsoever.

10.0 RIGHT TO REISSUE COMPETITIVE SOLICITATION DOCUMENT

- 10.1 Manitoba reserve the right to cancel and/or reissue the Competitive Solicitation document where, in Manitoba's sole opinion, the Responses submitted in response to the Competitive Solicitation do not warrant acceptance or where it would not be in the best interests of Manitoba to do so.
- 10.2 Costs incurred in the preparation, presentation and submission of the Response must be borne entirely by the Respondent. Manitoba will not reimburse any Respondent for any costs if the Competitive Solicitation is cancelled or reissued.
- 10.3 A Response is not and must not be deemed in anyway to be a unilateral Purchase Order/Contract. It is an offer by the Respondent to Manitoba to carry out the provisions set out in the Competitive Solicitation. A Response may be accepted or rejected by Manitoba in Manitoba's entire discretion.
- 10.4 A Response, or any part of a Response, is not accepted unless Manitoba or the MPO accepts it in writing and the printed Purchase Order/Contract has been delivered to the selected vendor(s).
- 10.5 Manitoba, in its entire discretion, may reject or accept all or any part of a Response or any of the Responses submitted in response to the Competitive Solicitation. Manitoba is under no obligation whatsoever to accept the Response with the lowest cost or any Response.

11.0 ERRORS AND OMISSIONS

- 11.1 Respondents must advise Manitoba or the MPO listed in the Competitive Solicitation of any errors or omissions they find in the Competitive Solicitation documents prior to Bid closing date and time so that the Competitive Solicitation can be revised and communicated to all Respondents.

12.0 ALTERATIONS/QUALIFICATIONS OF RESPONSES

- 12.1 No Response must be altered, amended or withdrawn after the specified closing date and time. Manitoba or the MPO issuing the Competitive Solicitation is the sole agency empowered to negotiate or alter any term, condition or stipulation of the Response and/or any subsequent award or event arising there from.
- 12.2 Any terms, conditions or stipulated qualifications on response submissions that are contrary to, or inconsistent with the Competitive Solicitation documents, may be a cause for rejection.
- 12.3 Respondents are cautioned to avoid making deviations and exceptions to the terms and conditions of the Competitive Solicitation documents which may result in rejection of their Response.
- 12.4 Responses stipulating that pricing is subject to changes "without notice" may be rejected outright.

13.0 AUTHORIZED VENDOR

- 13.1 Manitoba or the MPO reserves the right, prior to any Purchase Order/Contract award, to secure

evidence to Manitoba's or satisfaction of the MPO that any Respondent is the manufacturer or authorized distributor, dealer or retailer of the goods offered and is authorized to sell these goods in Manitoba, Canada and upon request will provide Manitoba or the MPO with written evidence thereof, free of any expense to Manitoba or the MPO, to guarantee faithful performance of the Purchase Order/Contract.

14.0 SPECIFICATIONS/QUALITY

- 14.1 It is understood that reference to available specifications will be sufficient to make the terms of such specifications binding on the Respondent. The use of the name of the manufacturer, of any special brand or make, in describing an item does not restrict the Respondent to that manufacturer or specific article, unless specifically so stated, this means being used simply to indicate the character or quality of the article desired; and is to establish a design, type of construction, quality, functional capability and/or performance level desired. The articles on which the Responses are submitted should be equal to that specified and must be supported by brochures or any identifying factors enabling comparative evaluation. Manitoba or the MPO will be the sole judge of equivalency.
- 14.2 Unless specifically requested all goods must be new (unused), of the most current production and proven technology and of merchantable quality.
- 14.3 Goods subject to shelf life and obsolescence contingencies must be marked with expiry dates and supplied sufficiently in advance of the expiry date to permit reasonable use or consumption by Manitoba or the MPO. The goods must conform to federal and provincial legislation.
- 14.4 All components of the goods must be compatible and meet or exceed the Competitive Solicitation requirements and the manufacturer's published specifications.
- 14.5 Where the Competitive Solicitation does not specify manufacturers' names, brands, models and/or part numbers, the Response must contain sufficient information for Manitoba or the MPO to identify the goods quoted, or the Response may be rejected.
- 14.6 Deviations from the Competitive Solicitation requirements may result in rejection. The Respondent must state each deviation, and Manitoba or the MPO will determine the acceptability of any minor deviations. Products not previously purchased may be subject to testing and approval.

15.0 EVALUATION OF GOODS

- 15.1 The Respondent must, upon request, supply the goods for evaluation at no additional cost to Manitoba or the MPO within the requested time frame (example (5) Business days).
- 15.2 The Respondent must pay all costs to supply the goods for evaluation at the location indicated and be responsible for the goods, in the event of loss or damage while at Manitoba or the MPO's site for evaluation. All costs referred to in this clause must include, but are not limited to, packaging, handling, shipping, unloading, duty, customs, brokerage fees and insurance charges.
- 15.3 If the goods supplied for evaluation are not in an operable state, the Respondent must, at the Respondent's expense, make the necessary adjustments, repairs or replacement within a reasonable period of time. Failure to provide the goods for evaluation, or failure of the goods to be in an operable state during evaluation, will result in rejection of the Response.
- 15.4 Unless, during the evaluation, the goods are either consumed or tested to destruction, the Respondent must remove the goods, at its own expense and risk, within 10 Business days after receiving notification from Manitoba or the MPO.
- 15.5 Results obtained during evaluation are the property of Manitoba or the MPO.

16.0 PRODUCT CERTIFICATION

- 16.1 All products supplied to Manitoba or the MPO, which require testing and approval by organizations such as Canadian Standards Association (CSA), Manitoba Department of Labour, or other testing agencies acceptable to Manitoba or the MPO, must be tested and certified prior to delivery.

17.0 ELECTRICAL

- 17.1 All electrical supplies and equipment must be C.S.A. approved and/or Manitoba Department of Labour certified where relevant.

18.0 MATERIAL SAFETY DATA SHEETS (MSDS)

- 18.1 The successful vendor must provide the end-user with one (1) copy of Material Safety Data Sheets (MSDS's) for each product being supplied and throughout the term of the Purchase Order/Contract provide any revisions or updates as soon as may be reasonably possible.

19.0 WARRANTY

- 19.1 Respondents must ensure that Manitoba or the MPO receives the manufacturer's warranty for the goods purchased.
- 19.2 Notwithstanding any manufacturers' warranties (which are to be supplied where applicable), all goods must be warranted to be free of defects in workmanship and materials for a suitable period of time consistent with the nature of the goods.
- 19.3 Despite anything in the Competitive Solicitation, if a defect is not corrected during the Warranty Period within a reasonable time frame, Manitoba or the MPO may reject the goods. If the goods are rejected the vendor must:
- a) remove the goods, at its expense and risk within a reasonable time frame after notification that the goods have been rejected
 - b) immediately, at Manitoba's or the MPO's option, either replace the goods, or if applicable issue a credit or refund to Manitoba or the MPO for all monies paid.

20.0 PURCHASER PROPERTY

- 20.1 Any and all property of Manitoba including but not restricted to, any document, drawing, or thing issued by Manitoba, coincident with and/or after the Competitive Solicitation shall remain the express property of the Province of Manitoba, and may not be destroyed, disposed of, reproduced or modified without the permission of Manitoba.

21.0 DELIVERY

- 21.1 The Respondent must complete the appropriate area on the Response stating the delivery date or number of days from the receipt of the Purchase Order/Contract. If complete delivery of the goods is not made within the time period indicated, Manitoba or the MPO may
- a) extend the delivery period
 - b) demand compensation
 - c) accept partial shipment, and/or
 - d) cancel the Purchase Order/Contract.

22.0 ACCEPTANCE OF RESPONSE

- 22.1 The vendor agrees that their Response and any part of their Response is subject to the following conditions, in addition to any other terms and conditions set out in the Competitive Solicitation.
- a) The receipt of Responses by Manitoba and the opening of Responses does not in any way constitute acceptance of the Response.
 - b) Responses must not be deemed in any way to be a unilateral contract; they are offers made by the Respondent to Manitoba to carry out the provisions of the Competitive Solicitation which may be accepted or rejected by Manitoba at Manitoba's sole discretion.
 - c) Responses will be accepted, in whole or in part, only if they are accepted in writing by Manitoba and the written acceptance, (Purchase Order/Contract) is delivered to the successful vendor.
 - d) Manitoba at its sole discretion may reject or accept all or any part of the Response or any of the Responses submitted under the Competitive Solicitation; Manitoba is under no obligation whatsoever to accept the lowest or any Response.
 - e) Responses are subject to such discussion and negotiations in respect to all or any part of the Response and any or all of the Responses received by Manitoba as may be deemed advisable at Manitoba's entire discretion.

23.0 TIME IS OF THE ESSENCE

- 23.1 Time is of the essence in the performance of the obligations under the Purchase Order/Contract. The vendor acknowledges that Manitoba or the MPO may return part or all of any shipment of goods received outside the delivery date and charge the vendor with any loss or expense sustained as a result of the vendor's failure to deliver as agreed. Without prejudice to the foregoing, if any circumstances arise which may delay the delivery of the goods, the vendor will immediately notify Manitoba or the MPO of the circumstances and propose a revised delivery date which Manitoba or the MPO may elect to agree or not agree to in its own discretion.
- 23.2 Delivery must be effected within the date and/or time stated on subsequent Purchase Order/Contract, failing in which Manitoba or the MPO reserves the right to purchase elsewhere and charge the vendor with any loss incurred thereon, unless the deferred shipment can be arranged in writing.
- 23.3 The vendor should advise Manitoba or the MPO if for any reason a supply is short shipped or delayed and should also advise as to the expected delivery date.
- 23.4 The vendor must be responsible for all costs incurred for replacement of goods damaged prior to delivery to Manitoba or the MPO.
- 23.5 The vendor must not ship the goods by collect shipments, for payment upon receipt by Manitoba

or the MPO, or at Manitoba's or the MPO's risk unless stipulated in the Competitive Solicitation document.

24.0 ACCEPTANCE/INSPECTION OF GOODS

- 24.1 The signing of any delivery slip should not be construed as acceptance of the product delivered.
- 24.2 The final inspection and acceptance or rejection will be made at the delivery destination, a visual inspection and/or test of the goods supplied to determine if they are in accordance with the Purchase Order/Contract. This will be completed as promptly as practicable after receipt of goods. Unless Manitoba or the MPO notifies the vendor that the goods are not in accordance with the Purchase Order/Contract, the goods will be deemed accepted.
- 24.3 All goods, materials and workmanship will be subject to inspection and testing at all times and places, and when practicable, during manufacture. The right is reserved by Manitoba or the MPO to reject articles which contain defective material and workmanship.
- 24.4 If Manitoba or the MPO determines that the goods are not in accordance with the Purchase Order/Contract, the vendor must, at the vendor's expense, remove the rejected goods promptly after the notification of rejection. Final inspection and acceptance or rejection of the goods or supplies will be made as promptly as practicable, but failure to inspect and accept or reject the goods or supplies will not impose liability on Manitoba or the MPO. In the event necessity requires the use of the goods or supplies not conforming to the specifications, payment may be "made at an appropriate reduction in price." This obligation will not apply to goods that have been modified or repaired, after receipt by Manitoba or the MPO, or by anyone not authorized by the vendor, the manufacturer or the Canadian distributor.
- 24.5 If the goods supplied are rejected by Manitoba or the MPO, the vendor must remove the goods at its expense and risk within 10 business days after notification from Manitoba or the MPO, that the goods have been rejected or immediately, at Manitoba's or the MPO's option, either replace the goods, or if applicable, issue a credit or refund to Manitoba or the MPO all monies paid.

25.0 CONFLICT OF INTEREST

- 25.1 The Respondent must take appropriate steps to ensure that neither the Respondent, nor the Respondent's employees are placed in a position where there is or may be an actual conflict, or a perceived potential conflict between the Respondent, its employees and any agent or representative of the Province of Manitoba.
- 25.2 The Respondent must not offer or give, or agree to give, to any agent, employee or representative of the Province of Manitoba any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this or any other Purchase Order/Contract with the Province of Manitoba.
- 25.3 No agent, employee or representative of the Province of Manitoba will either solicit or accept gratuities, favors or anything of monetary value from the Respondent.
- 25.4 If the Respondent has reason to believe any agent, employee or representative of the Province of Manitoba has violated any provision of this Conflict of Interest section, the Respondent will immediately notify the Province of Manitoba, Procurement and Supply Chain Division of the suspected violation by sending notice to a Director of Procurement and Supply Chain Division, explaining the situation in full. The Respondent's failure to so notify the Director will be a material breach of this agreement and the Director, at his/her option, may terminate the Purchase Order/Contract.

26.0 DISCLOSURE OF INFORMATION

- 26.1 Relative to the Freedom of Information and Protection of Privacy Act, the Government of Manitoba reserves the right to publicly disclose details of Purchase Order/Contract and the prices at its discretion, or as required by law.
- 26.2 Neither the Respondent nor its suppliers/vendors, employees nor consultants must make any public statement making reference to, or relating to the existence or performance of the Purchase Order/Contract in any advertising, testimonials or promotional material without the prior written consent of the Province of Manitoba, which will not be unreasonably withheld.
- 26.3 The provision of this condition will apply during the extension of a Purchase Order/Contract and indefinitely after its expiry or termination.

27.0 RECIPROCITY

- 27.1 Manitoba may consider and evaluate Responses from another jurisdiction on the same basis that the government purchasing authorities in those jurisdictions would treat a similar Response from a Manitoba Respondent.

28.0 ENVIRONMENTAL PREFERENCE

28.1 The Province of Manitoba may seek to purchase recycled and/or environmentally preferable products where practical and effective in support of Manitoba's Sustainable Development Procurement Policy and Guidelines. Examples of "environmentally preferable products" are as follows:

- a) Products, recycled or recyclable – preference may be given to products containing recycled content or which may be recycled
- b) Packaging – preference may be given to products which use less packaging, contain recycled content or can be recycled.
- c) Products, more environmentally preferable – preference may be given to products which generally meet or exceed the above, and which can be proven to be "more environmentally preferable". Respondents are encouraged to provide complete details of products offered including the environmental issues to be considered.
- d) Replacement products – Respondents are encouraged to provide complete details of possible replacement products which can be proven to be "more environmentally preferable" for the products specified.

28.2 At Manitoba's discretion any "environmentally preferable products" offered may be:

- a) accepted for this Competitive Solicitation, or
- b) not accepted for this Competitive Solicitation, or
- c) not accepted for this Competitive Solicitation but considered for future study/use.

29.0 ASSIGNMENT

29.1 The vendor must not assign or transfer the Purchase Order/Contract or any of the rights or obligations under the Purchase Order/Contract without first obtaining written permission from Manitoba. Manitoba may, in its sole discretion, refuse to grant such permission.

30.0 SUBCONTRACTING

30.1 The Contractor must not assign or transfer the Purchase Order/Contract /Agreement or subcontract out any of the rights or obligations under the Purchase Order/Contract /Agreement without advising Manitoba and obtaining approval of Manitoba. In the case of any proposed subcontract, the Contractor must first provide Manitoba with written notice and details thereof, including the name and business address of the proposed subcontractor. Any subcontractor determined by Manitoba to be acceptable, will be required to comply with all provisions of the Purchase Order/Contract /Agreement as if it were an original signatory to the Purchase Order/Contract /Agreement.

30.2 No subcontracting of any of the Contractor's rights or obligations hereunder will relieve the Contractor of any obligations or undertakings under the Purchase Order/Contract /Agreement, except to the extent they are properly performed by the Contractor's permitted subcontractors in accordance with the terms and conditions of the Purchase Order/Contract /Agreement.

30.3 The Purchase Order/Contract /Agreement will be binding upon the executors, administrators, heirs, successors and any permitted subcontractors of the Contractor.

31.0 RESPONSIBILITY AND LIABILITY

31.1 Respondents should hold harmless the Government of Manitoba and its employees and agents from any and all third party claims, demands, or actions for which Respondents are legally responsible, including those arising out of negligence, wilful harm or crimes by Respondents or the Respondents' employees or agents.

32.0 GOVERNING LAW

32.1 Unless the Competitive Solicitation specifically states otherwise, the Competitive Solicitation, all Responses, and any subsequent Purchase Order/Contract (s) will be construed and interpreted in accordance with the Laws of Manitoba and where the vendor uses sources outside of Canada, those businesses comply with local labour laws in the country of manufacture.

32.2 The Respondent must be in good standing under The Corporations Act (Manitoba), or properly registered under The Business Names Registration Act (Manitoba), or otherwise properly registered, licensed or permitted by law to carry on business in Manitoba, or if the Respondent does not carry on business in Manitoba, in the jurisdiction where the Respondent does carry on business and may be required to provide evidence thereof upon request.

32.3 All Competitive Solicitations are subject to the Canadian Free Trade Agreement, New West Partnership Trade Agreement, or any other trade agreement to which Manitoba is a signatory.

32.4 All applicable laws of the Province of Manitoba, regulations and standards, including all

Occupational Health & Safety, and Workers Compensation requirements will govern this Competitive Solicitation and any resulting Purchase Order/Contract.

- 32.5 Manitoba requires its Respondents to adhere to Provincial Labour Laws, and to declare that in bidding for the work and in entering into a Purchase Order/Contract, the vendor and his subcontractors conduct their respective business in accordance with established International Codes as they relate to Child and Forced Labour embodied in United Nations (UN) and International Labour Organization (ILO) conventions as ratified by Canada.
- 32.6 Minimum Wage: The Respondent must ensure that, where appropriate, staff employed by the Respondent are paid at least the minimum wage in accordance with the minimum wage scale for the Province of Manitoba or in the jurisdiction where the Respondent does carry on business.

33.0 TERMINATION

- 33.1 Manitoba may, in its sole discretion, immediately terminate a Purchase Order/Contract in writing if:
- a) the Vendor fails to properly fulfill, perform, satisfy and carry out each and every one of its obligations under the Purchase Order/Contract; or
 - b) the Vendor fails or refuses to comply with a verbal or written request or direction from Manitoba within three (3) days of receiving the request or direction; or
 - c) the Vendor become bankrupt or insolvent or liquidates; or
 - d) a receiver, trustee or custodian is appointed for the assets of the Vendor, or any partner thereof; or
 - e) the Vendor or any partner thereof makes a compromise, arrangement, or assignment with or for the benefit of the creditors of the Vendor or of that partner, as the case may be; or
 - f) the Vendor fails to secure or renew any license or permit for the Vendors business required by law; or any such license or permit is revoked or suspended; or
 - g) the Vendor or any partner, officer or director of the Vendor is found guilty of an indictable offence; or
 - h) the Vendor fails to comply with any law or regulation relating to the employment of its employees; or
 - i) the Vendor at any time engages in any activities or trade practices which, in the opinion of Manitoba, are prejudicial to the interests of Manitoba, or a department or agency thereof; or
 - j) there is a breach of any provision of the Purchase Order/Contract.
 - k) the goods provided by the Vendor are not according to the contract or otherwise unsatisfactory; or
 - l) the services provided by the Vendor are unsatisfactory, inadequate, or are improperly performed; or
 - m) the Vendor has failed to meet the delivery date indicated on the Purchase Order/Contract or repeatedly failed to meet the delivery lead time, indicated on the Purchase Order/Contract.
- 33.2 Manitoba may, in its sole discretion, terminate the Purchase Order/Contract at any time by giving at least 30 days written notice to the Vendor prior to the intended termination date. All purchases by Manitoba under the Purchase Order/Contract are subject to and expressly conditional upon the Legislature of the Province of Manitoba duly appropriating funds to the fiscal year in which they are required to be paid. For the multi-year contracts the Competitive Solicitation/contract term "fiscal year" means the period commencing April 1st of one year and ending on March 31st of the next ensuing year.

34.0 GOVERNMENT FUNDED BODIES

- 34.1 The Province of Manitoba will allow government funded bodies to purchase goods and/or services using long term contracts awarded as a result of the Competitive Solicitation. By submitting a Response, the Respondent indicates that they agree to extend the same pricing to government funded bodies as per the terms and conditions in the Competitive Solicitation document.

Issued by:

Manitoba Central Services
Procurement and Supply Chain Division
6th Floor, 352 Donald Street
Winnipeg, Manitoba R3B 2H8
Phone: 204-945-6361
Fax: 204-945-1455
ProcServ@gov.mb.ca