

1. GENERAL

- Time is of the essence.
- Bids must be submitted online through the web portal to be considered valid. Hardcopy submissions will not be accepted.
- An incomplete, conditional, unbalanced, obscure, altered or irregular bid may be rejected. Bid may be rejected for failure to provide specifications or catalogue information, or both, for a product offered as an equivalent.
- Bids shall be irrevocable for the bid validity period, and the lowest or any Bid or part thereof will not necessarily be accepted.
- Written Addenda will be used to amend or clarify bid Specifications.
- Agreement includes Purchase Order, these Terms and Conditions, Specifications, Drawings and SUPPLIER's Bid, with document precedence in the order named.
- BID means an offer submitted in response to an Open Call for Bids, to supply Commodities.
- COMMODITIES means good, services, public works and lease of space
- COMPANY means the issuer of the Open Call for Bids and the Purchase Order including Nalcor and/or its Affiliates. "Company" is the entity identified in the Open Call for Bids.
- SUPPLIER means the Supplier named on the Purchase Order and includes its subcontractors and agents.
- GOODS means supply of specified manufactured articles.
- WORK means supply of specified labour, equipment, materials, GOODS and services.
- WORK SITE means all places where WORK is to be performed.
- Communications and documentation shall be in English.
- Measurement units shall comply with Specifications.
- WORK shall be governed by the laws of Newfoundland and Labrador and any action or proceeding arising from the Work shall be determined exclusively by a court in Newfoundland and Labrador
- Agreement binds and benefits both parties, successors and permitted assigns.

2. BID CLOSING

Bid closing time is clearly stated on the Request for Quotation form or in a bid document. Bid responses must be received prior to the bid closing time.

3. BID EVALUATION

- Evaluation will be based on total analysis including, but not limited to, price, quality, delivery, BIDDER's past performance and its ability to meet Specifications, and legal, technical and financial considerations relevant to cost-effective delivery.
- If no bid meets Specifications, bids may be evaluated on the basis of that which most closely meets Specifications and is most cost-effective.

4. PRICING AND PAYMENT TERMS

- Prices should be in Canadian currency, payable at par in St. John's, Newfoundland. Unless otherwise provided in Specifications, payment shall be net thirty (30) days from invoice date, subject to receipt of GOODS in apparent proper working condition and free from defects.
- SUPPLIER's acceptance of final payment, releases COMPANY from claims of and liability to SUPPLIER for COMPANY's acts, omissions or neglect.
- Invoices shall separately identify the amounts of federal GST/HST.

5. PURCHASE ORDER CHANGES

Changes shall be made by duly authorized written Change Order.

6. GOODS AND EQUIVALENTS

- GOODS shall meet Specifications, be of standard proven contemporary design (not prototype) and be new, unless otherwise approved by COMPANY in writing.
- Equivalentents approved by COMPANY in writing are acceptable.

7.DELIVERY

SUPPLIER shall arrange design, manufacturing and shipping so that GOODS or components thereof shall arrive at Destination Point in accordance with the date stipulated and any applicable special delivery instructions.

8.SHIPPING AND INSURANCE

SUPPLIER shall adequately protect GOODS against damage until delivery, and bear costs of loss or damage. Itemized packing slip shall accompany each shipment. INCO Shipping Terms (2020): DDP, landed and insurance paid to destination.

SUPPLIER shall provide insurances as per Specifications.

9.ENVIRONMENTAL PROTECTION

COMPANY uses an Environmental Management System (EMS) registered to the ISO 14001 Standard. COMPANY has an environmental policy that commits to compliance with legal and other requirements, prevention of pollution and continual improvement. SUPPLIER must be aware of actual or potential impacts associated with GOODS or WORK provided. SUPPLIER shall protect the environment of the areas where the WORK is located. WORK shall be subject to inspection by COMPANY and relevant provincial and federal governments. Specific matters relating to environmental protection shall be dealt with between SUPPLIER and COMPANY.

10. HAZARDOUS OR CONTROLLED PRODUCTS

SUPPLIER shall not deliver or use a hazardous or controlled product as defined by the Hazardous Products Act unless such product has a WHMIS label attached and is supplied with a Material Safety Data Sheet (MSDS). SUPPLIER shall inform workers of all information concerning use, storage and handling of, or working in proximity to, hazardous or controlled products.

11. PERMITS

Unless otherwise provided for in Specifications, SUPPLIER shall obtain and pay for all permits and licences and shall give all notices necessary or required for lawful performance of WORK.

12. WORKER'S COMPENSATION

If applicable, prior to starting work, SUPPLIER shall provide a Letter of Good Standing from the WorkPlace Health, Safety and Compensation Commission.

13. WORKMANSHIP

SUPPLIER shall employ competent and skilful workers and provide best workmanship.

14. SAFETY AND HEALTH

SUPPLIER shall comply with legislated occupational health and safety requirements, and any COMPANY specified additional requirements including but not limited to any Covid-19 Policies.

15. INSPECTION AND ACCEPTANCE

GOODS shall be subject to inspection and test by COMPANY during manufacture, if specified, after delivery, if specified. If Specifications are not met, GOODS may be rejected and returned at SUPPLIER's expense.

16. TITLE AND WARRANTY

- SUPPLIER shall provide COMPANY with good and clear title to GOODS and shall indemnify and save harmless COMPANY from and against any and all claims, damages, loss, costs and expenses arising from any title dispute.
- Unless otherwise specified in the Specifications, GOODS shall be guaranteed as to compliance with Specifications for a period of twelve (12) months following COMPANY's acceptance. SUPPLIER agrees to promptly remedy defects and deficiencies and to restore GOODS to satisfactory operating condition, and including freight charges, all without cost to COMPANY. Restored parts of GOODS shall be guaranteed for a further period equal to the original guarantee period and commencing from date of restoration. This guarantee shall be in addition to COMPANY's other rights.

17. PATENTS

SUPPLIER shall indemnify and save harmless COMPANY from all claims, costs and damages arising from COMPANY's use of GOODS provided by SUPPLIER resulting from or contributed to by infringement, or alleged infringement, upon any patent, trademark or copyright.

18. PERFORMANCE

SUPPLIER shall perform WORK as an independent Supplier and not as an employee or agent of COMPANY.

19. SUBCONTRACTS AND ASSIGNMENTS

SUPPLIER shall not assign this order and shall supply GOODS and render invoice, unless otherwise authorized by COMPANY. SUPPLIER shall be responsible for payment of all assessments for levies relating to WORK performed by employees, agents or subcontractors of SUPPLIER.

20. NO WAIVER

Agreement provisions may only be waived by COMPANY, in writing.

21. DUTIES AND TAXES

- Bid prices shall include all duties and taxes except federal GST/HST. Unless otherwise provided for in Specifications, COMPANY will be the importer of record.
- If applicable, Non-Resident Withholding Tax will apply, unless SUPPLIER has provided a waiver from CCRA.

22. FORCE MAJEURE

Neither party to the contract shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered or prevented by Force Majeure. "Force Majeure" means acts of God, fire, flood, tidal wave, lightening, earthquake, cyclone, epidemic, pandemic, acts of a competent governmental authority, acts of public enemies, terrorism, civil commotion, war, invasion, embargo, insurrection, rebellion, sabotage, protest, riot, violence, malicious mischief, extortion, strike, labour dispute or lockout and includes any other cause which could not have been avoided by the exercise of reasonable human foresight and skill.

23. TERMINATION

- COMPANY shall have the right, in its sole discretion, upon written notice to SUPPLIER, to terminate the contract in whole or in part without being subject to a claim for damages for such termination.

- SUPPLIER's obligations as to WORK performed and bona fide obligations assumed prior to termination shall continue after termination; and as full compensation, SUPPLIER will be paid for WORK performed to COMPANY's satisfaction prior to termination and cancellation expenses judged necessary by COMPANY. Total payments shall not exceed the Contract Price.

24. MECHANICS' LIEN ACT

Prior to release of any Mechanics' Lien holdback, if required, SUPPLIER shall provide a Release from All Liabilities in a form acceptable to COMPANY.

25. SIGNATURES

Signatures scanned and delivered by electronic mail or scanned and uploaded by other electronic means shall be deemed for all purposes to be original.

26. COVID-19 DELAYS

COMPANY may, at its sole discretion from time to time, including prior to commencement of the WORK, and for such period as it may deem expedient, delay or suspend the WORK, in whole or in part, make any other change to the WORK or terminate the WORK on the basis of developments with COVID-19 (including but not limited to any infectious disease or virus strain related thereto) by giving written notice thereof to SUPPLIER, who shall immediately give notice to its subcontractors. COMPANY's decision in this respect will be final and SUPPLIER shall not be entitled to any costs for delay or to any other costs or damage of any nature as a result of COMPANY's decision.

27. CONFIDENTIALITY OF INFORMATION

During the performance of the Contract, Supplier/Contractor may have access to Confidential Information. Contractor acknowledges that Confidential Information is, as between the parties hereto, the sole and exclusive property of Owner or its Affiliates, as the case may be, and Supplier/Contractor will not make, or enable, authorize, permit or acquiesce in any other person making, any copy or abstract of any Confidential Information unless (i) such copying or abstracting is done strictly in accordance with the Contract and for the sole purpose of undertaking the Work in accordance with the Contract, or (ii) with the prior written consent of Owner.

28. CONTRACTOR'S INVESTIGATIONS

Contractor acknowledges that it has fully informed itself in regard to the conditions of the Site and in regard to the local and other conditions affecting the performance of the Work

29. ASSIGNMENT

Neither Owner nor Contractor may assign or otherwise transfer any rights or interests created under the Contract without the prior written consent of the other, provided always that Owner may assign its rights and interests under the Contract to an Affiliate of Owner without the consent of Contractor.