



CORPORATE SUPPLY ARRANGEMENT # CS-000467

FOR ENERGY STAR REFRIGERATORS

THIS CORPORATE SUPPLY ARRANGEMENT is made the 1st day of October, 2008

The Brick Warehouse LP ("Offeror")
122 – 3000 Lougheed Highway
Tel: 604-941-0841
Fax: 604-941-5975
E-mail: bhall@thebrick.com
Contact Name: Brent Hall

Contact: Brent Hall (the "Offeror's Representative")

HEREBY OFFERS TO SUPPLY, AS, IF AND WHEN REQUESTED, THE GOODS AND RELATED SERVICES DESCRIBED IN SCHEDULE "A", TO HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA AND SUCH OTHER ENTITIES AND ON THE TERMS AND CONDITIONS, DESCRIBED BELOW.

THE OFFER IS AS FOLLOWS:

DEFINITIONS

1. In this Corporate Supply Arrangement and Schedules:
 - (a) "Administrative Requirements" means those requirements set out in Schedule "C";
 - (b) "Corporate Supply Arrangement" or "CSA" means this offer to supply the Goods and Services at the prices set out in Schedule "A" and on the terms and conditions set out in Schedules "B", "C" and "D";
 - (c) "Draw Down" means accessing this CSA and sending a Draw Down Form to the Offeror;
 - (d) "Draw Down Form" means any written form of an Entity that lists the Goods and Services set out in the CSA and is sent to the Offeror;
 - (e) "Entity" means a Public Entity or the Province;
 - (f) "Goods" means the Equipment described in Schedule "A";
 - (g) "Offeror's Representative" means the contact(s) as set forth above, who is the representative assigned by the Offeror to oversee the CSA;
 - (h) "Province" means Her Majesty the Queen in Right of the Province of British Columbia;
 - (i) "Public Entity" means a legal entity separate from the Province which is (i) a "government body", including any "government corporation", as defined in the Financial Administration Act, (ii) a "public body" as defined in the Freedom of Information and Protection of Privacy Act, or (iii) any other public body in British Columbia provided any such entity has been authorized by the province to access the Goods and Services described in this CSA and appears on the Province's list of such Public Entities posted at: http://www.pss.gov.bc.ca/csa/pdfs/approved_csa_users.pdf;
 - (j) "Province's Representative" means Edward Wong, Procurement Specialist, or such other individual designated from time to time by the Province to oversee this CSA on behalf of the Province;
 - (k) "Pricing" means the discounts off current retail list price, as set out in Schedule "A", payable for the Goods; and
 - (l) "Purchasing Services" means the branch within the Common Business Services division of the Ministry of Labour and Citizens' Services.

EXPIRY

2. This CSA will expire on **August 31, 2010**, unless withdrawn in accordance with paragraph 8.

THE CORPORATE SUPPLY ARRANGEMENT

3. The Offeror understands and agrees that:
 - (a) a Draw Down Form will form an agreement between the Entity and the Offeror for the purchase and supply of those Goods and services which have been Drawn Down, provided always that such Draw Down is made in accordance with the provisions of this CSA, including Schedule "C".;
 - (b) the issue and distribution of this CSA does not oblige the Province to authorize or order all or any of the Goods described in this CSA;
 - (c) the Offeror will not apply restrictions regarding the Entities wishing to use the CSA;
 - (d) the terms and conditions as applicable, set out in a Draw Down Form will apply to each Draw Down. Public Entities will have the option of including in their Draw Down Form general terms and conditions that differ from those contained in Schedule D ("Counter Offer"). Any Draw Down made by the Province will be in accordance with the terms and conditions in Schedule D. The Province has no control over a Public Entity's terms and conditions. The Offeror reserves the right to refuse to accept a Counter Offer from a Public Entity. However, if the Offeror accepts the Draw Down Form from a Public Entity by providing the Goods requested, the Offeror will be deemed to have accepted the Counter Offer;
 - (e) neither Public Entities utilizing this CSA nor the Offeror will be required to agree to any other terms or conditions for a Draw Down other than those set out in this CSA and the Draw Down Form;
 - (f) all references to dollars, currency, and money shall mean Canadian dollars (\$CAD);
 - (g) an Entity will pay to the Offeror the Prices and any applicable sales taxes for the Goods that have been specified on the Draw Down;
 - (h) an Entity reserves the right to procure the specified Goods by any other means it deems necessary including the use of other agreements, or by other procurement and contracting methods;
 - (i) with respect to Draw Downs made by the Province, the Province's liability shall be limited to that which arises from any Draw Down issued prior to the expiry date described in paragraph 2; with respect to Draw Downs made by an Entity other than the Province, the Province will not be a party to, and disclaims any and all liability for the obligations arising from, any contract that forms between the Entity and the Offeror on issuance of that Draw Down;
 - (j) the Province reserves the right to set aside this CSA, for whatever reason, and not make it available for any Draw Downs. The Province shall promptly notify the Offeror of such action;
 - (k) no change to this CSA will be valid unless it is by way of an addendum signed by both the Offeror and the Province;
 - (l) at the request of the Province's Representative, the Offeror will provide product descriptions, pricing grids if requested, and other relevant information in hard copy or in mutually agreeable electronic media and format;
 - (m) the Offeror's Representative, and a designated back-up individual, will be available during the Province's normal business hours, and will have the authority to represent the Offeror with respect to all issues arising under this CSA;
 - (n) Schedule C, Administrative Requirements applies to, and must be complied with by the Offeror for all Draw Downs made against this CSA, including those made by a Public Entity;
 - (o) where the purchaser is an Entity that is exempt from the application of GST, the Offeror agrees that the Goods and/or services purchased pursuant to this offer are for the sole use of, and are being purchased by that Entity, with Crown funds, and are not subject to the Goods and Services tax;

- (p) notwithstanding section 3 (o) of this Offer, the Offeror acknowledges that the application of GST may apply differently to some public organizations accessing this Offer and the Offeror should inquire at the time of order the application of GST;
- (q) the Offeror will provide the Province's Representative with 60 days written notice of any changes to the list of Goods or services included in Schedule "A" ; and
- (r) the Entity acknowledges that the Goods may from time to time not be available from the manufacturer, and the Offeror will use its best commercial efforts to supply the Goods or goods that are comparable to the Goods at the prices specified.

DRAW DOWN MECHANISM

- 4. The Goods may be ordered by issuance of a Draw Down.
- 5. The Offeror will treat as valid any Draw Down that is on a completed order form and includes the following:
 - (a) this CSA Reference Number CS-000467;
 - (b) the Public Entity's purchase order number;
 - (c) the Goods and related services set out in Schedule "A" that are being ordered and applicable fees;
 - (d) letterhead identifying the Public Entity making the Draw Down; and
 - (e) location to which the Goods are to be delivered.
- 6. If the Province provides a Draw Down Form prior to the expiry of this CSA and receives the Goods, then the Province will pay to the Offeror amounts payable as described in Schedule "A" to this CSA. Draw Downs against a CSA paid for with the Province's acquisition card will be accorded the same prices and terms and conditions as any other draw-down.
- 7. If there is any conflict or inconsistency among any of the provisions of the following documents:
 - (a) this CSA; and
 - (b) a Draw Down,then the order of precedence will be (a) and then (b).

ENVIRONMENTAL VALUE ADDED OFFERING (1% REBATE)

- 8. The Offeror, will provide a one (1) percent rebate on all refrigerators purchased and delivered under this CSA. The rebate will be paid on a semi-annual basis on or about July 15th and January 15th cumulatively for the prior six months. Payment of the rebate will be made by the Offeror by cheque to a program, organization or charity involved in environmental sustainability that has been designated in writing by the Province's Representative or Purchasing Services to receive the rebate payment.

NOTIFICATION OF WITHDRAWAL

- 9. In the event that the Offeror wishes to withdraw this CSA, the Offeror will provide no less than thirty (30) days' prior written notice to the Representative (Province), and such withdrawal of this CSA will not be effective until receipt of such notification by the Representative (Province) and the expiry of such notice period.
- 10. The Offeror and the Entity agree to fulfil any Draw Downs, which may be made before the expiry of such notice period.

REPRESENTATIONS

11. The Offeror represents and warrants to the Province that:
- (a) it is a limited partnership, duly organized, validly existing and having the legal capacity to carry on business in British Columbia and is fully legally authorized, licensed and permitted to provide the Goods and the Services;
 - (b) it has the power and capacity to enter into the Agreement and to comply with each and every term and condition in the Agreement and of any agreement resulting from a Draw Down;
 - (c) all necessary proceedings have been taken to authorize the execution and delivery of the Agreement by the Offeror;
 - (d) all statements, representations or information, whether oral or written, made, furnished or given by the Offeror, its directors, officers or anyone acting on behalf of the Offeror, to the Province in connection with this CSA and the Agreement are materially correct and accurate;
 - (e) it has no knowledge of any fact that materially adversely affects or, so far as it can foresee, might materially adversely affect its condition or its ability to fulfil its obligations under this CSA or the Agreement;
 - (f) it is neither a party to nor threatened with any litigation and has no knowledge of any claims against it that would materially adversely affect its financial condition or its ability to fulfil its obligations under this CSA;
 - (g) it has filed all tax, corporate information, and other returns required to be filed by the laws of British Columbia and Canada, has complied with all workers compensation legislation and other similar legislation to which it is subject, and has paid all taxes, fees, and assessments due as of the date of this CSA;
 - (h) it is not in breach of any law, statute, regulation, or by-law applicable to its operations;
 - (i) it holds all permits, licenses, consents, and authorities issued by any level of government or any agency of government, that are required by law to conduct its business; and
 - (j) it has, and will provide and maintain throughout the term of this CSA, sufficient staff, servants, employees, subcontractors, materials and appropriate resources in place and available to it to fully perform and provide their obligations under this CSA in a proper and timely manner.
12. Entity acknowledges that The Brick Warehouse LP is a limited partnership formed under the laws of Manitoba and that the obligations of The Brick Warehouse LP are not personally binding upon, nor shall resort be had to, the property of any of the limited partners of The Brick Warehouse LP, their heirs, successors and/or assigns. Entity agrees that, if it is required to enforce its rights under the Agreement, resort shall only be had to the property of The Brick Warehouse LP or the property of the general partners of The Brick Warehouse LP.
13. All representations, warranties, covenants and agreements made in this Agreement are material and the Province has relied on them, notwithstanding any prior or subsequent investigation by the Province.

IN WITNESS WHEREOF the undersigned extends this CSA on the date first above written.

SIGNED by the Offeror on behalf of The Brick Warehouse LP, by its General Partner, The Brick GP Ltd.

(Authorized Signatory)

Title

(Print Name)

SCHEDULE "C"

ADMINISTRATIVE REQUIREMENTS

The following are the administrative requirements and procedures applying to CSA #CS-000467.

PURCHASING SERVICES CSA CONTACTS

1. For further information or clarification regarding:

Administration:
Shirley Boon
Email: Shirley.Boon@gov.bc.ca
Phone: 250-828-4322

Representative (Province):
Edward Wong, Procurement Specialist
Email: purchasing@gov.bc.ca Attn: Edward Wong: CSA #CS-000467 in subject line
Phone: 250-387-7322

DRAW DOWN REPORTING PROCEDURES

2. Offeror is solely responsible for providing all Draw Down information to Purchasing Services. Draw Down reports must be submitted on a monthly basis,
3. Monthly Draw Down information must be sent either by mail, fax or electronically by the Offeror to:

Purchasing Services Branch
Minister of Labour and Citizens' Services
Attn: Shirley Boon
2nd Floor, 455 Columbia Street
Kamloops BC V2C 6K4
Fax: 250-371-3890
Email: Shirley.Boon@gov.bc.ca

4. The report must contain at a minimum:

CSA # CS-000467;
Entity
Draw Down Form number;
Refrigerator Brand Name
Model #
Quantity ordered
Price

The information should be provided in columns in the following order:

CSA #	Entity	Draw Down #	Refrigerator Brand Name	Model #	Quantity	Price	Delivery, Installation & Removal Cost
-------	--------	-------------	-------------------------	---------	----------	-------	---------------------------------------

5. The Offeror shall provide a monthly report regardless of whether or not any Draw Downs are received in that month, and in each quarterly report will provide an explanation for any other missing data.
6. Each quarter the Offeror must submit to Purchasing Services Branch a cheque for one percent of all sales (exclusive of taxes) that were reported to Purchasing Services on the quarterly draw down report, including sales to any Entity. The cheque must be payable to the Minister of Finance, and sent to Shirley Boon, Supply Chain Management Clerk, Purchasing Services Branch, 2nd Floor, 455 Columbia Street, Kamloops, BC V2C 6K4. The cheque must clearly

identify the CSA and the months represented in the payment. The cheque must be submitted no more than 1 month after the end of the quarter:

The fee for:	Is due:
January, February, March	April 30
April, May, June	July 31
July, August, September	October 31
October, November, December	January 31

7. Draw Down reports will be checked against the Purchasing Services Branch copies of the Draw Downs to verify accuracy. Purchasing Services shall promptly notify Offeror of any discrepancy, and will be given one month to respond to or rectify the report.
8. More than two occurrences of inaccuracies may result in the CSA being suspended, until such time as the supplier can demonstrate to Purchasing Services that they are capable of managing the terms of their CSA agreement.
9. Failure to submit a reimbursement cheque within two months of the end of a quarter in which sales were reported may result in the CSA being suspended until such time as reimbursement is received.

SCHEDULE "D"

GENERAL TERMS AND CONDITIONS THAT APPLY TO DRAW DOWNS OF GOODS AND SERVICES ON A CORPORATE SUPPLY ARRANGEMENT:

- 1) In this Schedule D, the "Contractor" means the Offeror who is in receipt of a Draw Down and "Entity" means the Province or an Entity that has issued a Draw Down.
- 2) The terms and conditions contained in this schedule "D", the Draw Down Form and CSA Number CS-000467 (which includes the schedules to the CSA) will constitute the full and complete agreement between the parties (the "Agreement"). In the event of a conflict, the CSA will govern.
- 3) An Entity reserves the right to cancel this Agreement, if promised or specified delivery is not met or if Goods or services fail to meet specification requirements. Over shipments against this order may be returned with all freight charges to the Contractor's account. Order numbers must be shown on all invoices, packing slips and packages. Shipments must be accompanied by a properly completed delivery slip.
- 4) An Entity has the right of inspection and approval. Inspection by an Entity of advance samples shall not constitute final acceptance and the Contractor will remain bound by any warranties set out in the specification requirements. No substitutions are permitted unless previously agreed to by the Entity and confirmed in writing.
- 5) The Contractor must indemnify an Entity against any claim of any person, firm, or corporation alleging that the sale by the Contractor to the Entity hereunder constitutes an infringement of patent rights, copyright or any other intellectual property rights.
- 6) The Contractor is an independent contractor and must indemnify, protect, and save harmless an Entity, its agents, employees, successors and assigns from any and all damage, liabilities and claims of whatsoever nature arising out of the furnishing by the Contractor, its agents or employees, of the materials and/or performing of the services covered by this order or incidental or ancillary thereto.
- 7) The Contractor must not change prices, terms or conditions without the prior written permission of the Representative (Province).
- 8) The Agreement is governed by the laws of the Province of British Columbia.
- 9) Notwithstanding any other provision of the Agreement, the payment of money by the Province to the Contractor under the Agreement is subject to:
 - a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, R.S.B.C. 1996, c.138, as amended from time to time (the "Act"), to enable the Province, in any fiscal year or part thereof when any payment of money by the Province to the Contractor falls due under this Agreement, to make that payment; and
 - b) Treasury Board, as defined in the Act, not having controlled or limited expenditure under any appropriation referred to in subparagraph (a) of this paragraph.
- 10) The Contractor must not provide any Goods or services to any person, which in the Province's reasonable opinion could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's obligations to the Province under the Agreement.
- 11) Time will be of the essence in this Agreement.
- 12) The Contractor must comply with all applicable laws in providing the Goods/services specified.
- 13) Payment terms are subject to the Province of British Columbia's interest on overdue accounts payable regulations.
- 14) The Province is dedicated to successful negotiation with the Contractor to resolve any conflict arising in the performance of this Agreement. In the event of unsuccessful informal negotiations however, disputes rising out of or in connection with this Agreement will be referred to and finally resolved by arbitration administered under the *Commercial Arbitration Act*. The place of arbitration will be Victoria, British Columbia, Canada.