

## CLIENT-SUPPLIER AGREEMENT

**THIS CLIENT-SUPPLIER AGREEMENT**, made in duplicate, for **General Hand Tools, Maintenance and Safety Products** as outlined in Request for Proposals **OECM#2018-326-01** is effective as of the **9<sup>th</sup> day of November, 2020**

### BETWEEN:

**The Corporation of the Town of Fort Frances**  
(the "Client")

- and -

**Fastenal Canada, Ltd.**  
(the "Supplier")

**WHEREAS** the Supplier entered into a Master Agreement with OECM referred to as **General Hand Tools, Maintenance and Safety Products OECM#2018-326-01** for the provision of Resources;

**AND WHEREAS** the Client has decided to become a Client as defined under the Master Agreement by entering into this Client-Supplier Agreement (the "CSA");

**NOW THEREFORE** in consideration of their respective agreements set out below and subject to the terms of the Master Agreement, the parties covenant and agree as follows:

### ARTICLE 1 - DEFINITIONS

Unless otherwise specified in the CSA, capitalized words and phrases shall have the meaning set out in the Master Agreement. When used in the CSA, the following words and phrases have the following meanings:

"**Rates**" means the applicable price for the Resources, as defined in the Master Agreement;

"**Term**" means the period of time from the effective date first above written up to and including the later of:

- (a) **July 24, 2022**, or,
- (b) the Expiry Date of any extension to the CSA; which in any event shall be no later than the expiry of the Master Agreement or any extension thereto.

### ARTICLE 2 - THE MASTER AGREEMENT

**2.1** This CSA is entered into pursuant to, incorporates by reference and is governed by the Master Agreement reference **OECM#2018-326-01**.

**2.2** All terms and conditions of the Master Agreement apply with the appropriate modifications to this CSA. In the event of a conflict or inconsistency between this CSA and the Master Agreement, the latter shall govern (unless the Master Agreement provides otherwise) provided that the Rates payable pursuant to a Client-Supplier Agreement executed by the Supplier and a Client are less than the Rates set out in the Master Agreement.

### ARTICLE 3 – REPRESENTATIVES FOR CLIENT-SUPPLIER AGREEMENT

**3.1** The Supplier's representative for purposes of this CSA shall be:

Norma Turner, Government Sales Specialist  
Office: (519) 842-7488  
Cell: (519) 550-1801  
Email: noturner@fastenal.com

**3.2** The Client representative for purposes of this CSA shall be:

Attn: Manager of Operations & Facilities  
Town of Fort Frances  
320 Portage Avenue  
Fort Frances, ON P9A 3P9  
Phone: 807-274-9893

**3.3** The OECM representative for purposes of this CSA shall be:

Customer Relationship Manager  
Email: [customersupport@oecm.ca](mailto:customersupport@oecm.ca)  
Phone: 1-844-OECM-900 (1-844-632-6900)

**ARTICLE 4 - TERM OF CSA**

- 4.1** This CSA is effective as of the Effective Date, and will, unless terminated earlier in accordance with the provisions of the Master Agreement or this CSA, terminate on the same day that the Master Agreement terminates (the "**Term**"). If the Term of the Master Agreement is extended, then the Term of this CSA shall automatically be extended for the same period and upon the same terms and conditions as the Master Agreement is extended.

**ARTICLE 5 – RESOURCES, RATES AND PAYMENT PROCESS**

- 5.1** The Supplier agrees to provide the Resources to the Client as described in the Master Agreement and as more particularly specified in Appendix A – Resources and Supplementary Provisions to this CSA in accordance with the Rates set out in Schedule 1 of the Master Agreement.
- 5.2** The Supplier shall adhere to the timelines set out in Appendix A – Resources and Supplementary Provisions to this CSA.
- 5.3** The Client hereby consents to the use by the Supplier of the Supplier's Subcontractors and personnel (if any) named in Appendix A – Resources and Supplementary Provisions to this CSA.
- 5.4** The Client may request changes to the particular CSA, which may include altering, adding to, or deleting any of the Resources. The Supplier shall comply with all reasonable Client change requests and the performance of such request shall be in accordance with the terms and conditions of the Master Agreement and CSA, including the Rates for such Resources set out in the Master Agreement. Any changes requested must be authorized in writing by the Client and accepted by the Supplier in writing in accordance with Article 12.3 of this CSA.

**ARTICLE 6 - RATES AND PAYMENT**

- 6.1** The Client shall pay the Supplier in accordance with the Rates set out in the Master Agreement. For convenience, the applicable Rates are set out in Appendix B - Rates of this CSA.
- 6.2** The Client will pay the Supplier by way of **cheque or electronic funds transfer**. The CSA payment terms are net thirty (30) days.
- 6.3** The Supplier shall bill the Client for Resources in accordance with Article 4 of the Master Agreement, unless otherwise set out in Appendix B - Rates to this CSA or in Article 6.1 above.

**ARTICLE 7 – INSURANCE**

- 7.1** The Supplier shall furnish a Certificate of Insurance to the Client in accordance with the insurance requirements set out in Article 7 of the Master Agreement prior to commencing performance under the CSA.
- 7.2** The Supplier shall ensure that the Client is named as an additional insured party under the Supplier's insurance policy put in effect and maintained pursuant to Article 7.03 of the Master Agreement.

**ARTICLE 8 - NOTICES**

- 8.1** Notices shall be in writing and shall be delivered by email, postage-prepaid envelope, personal delivery or facsimile and shall be addressed to, respectively, the Client address to the attention of the Client Representative and to the Supplier address to the attention of the Supplier Representative. The parties may change such addresses by notice in writing delivered to the other in accordance with this paragraph.

**8.2** Notices shall be deemed to have been given:

- (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or,
- (b) in the case of personal delivery or facsimile, email, one (1) Business Day after such notice is sent in accordance with this paragraph.

**8.3** In the event of a postal disruption, notices must be given by personal delivery or by facsimile or email, unless the parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this Article.

**ARTICLE 9 –TERMINATION**

**9.1 Termination by Either Party**

Either party may terminate this CSA upon prior written notice of sixty (60) days to the other where such other party neglects or fails to perform or observe any material term or obligation of the CSA and such failure has not been cured within thirty (30) days of written notice being provided.

**9.2 Termination by Client**

The Client shall be entitled to terminate the CSA, without liability, cost or penalty:

- (a) on written notice to the Supplier, if any Proceeding in bankruptcy, receivership, liquidation or insolvency is commenced against the Supplier or its property;
- (b) on written notice to the Supplier, if the Supplier makes an assignment for the benefit of its creditors, becomes insolvent, commits an act of bankruptcy, ceases to carry on its business or affairs as a going concern, files a notice of intention or a proposal or seeks any arrangement or compromise with its creditors under any statute or otherwise;
- (c) on written notice to the Supplier, following the occurrence of any material change in the Client's requirements which results from regulatory or funding changes or recommendations issued by any government or public regulatory body;
- (d) at any time, without cause, by giving the Supplier at least sixty (60) days written notice; or,
- (e) in accordance with any provision of the Master Agreement or the CSA which provides for termination.

**9.3 Terminate for Convenience**

Either party may terminate this CSA at any time for its convenience with not less than sixty (60) days' prior written notice.

**9.4 Supplier's Obligations on Termination**

The Supplier shall, in addition to its other obligations under the Contract and at law:

- (a) provide the Client with a report detailing (i) the current state of the provision of Resources by the Supplier at the date of termination; and (ii) any other information requested by the Client pertaining to the provision of the Resources and performance of the CSA;
- (b) execute such documentation as may be required by the Client to give effect to the termination of the CSA; and,
- (c) comply with any instructions provided by the Client, including but not limited to instructions for facilitating the transfer of the Supplier's obligation to another person.

**9.5 Supplier's Payment Upon Termination**

A Client shall only be responsible for the payment for the Resources supplied on or before the effective date of any termination of the CSA and for any Client-unique Resources in Supplier's inventory ordered at the specific request of the Client (which such inventory shall be immediately delivered to the Client). Termination shall not relieve the Supplier of its warranties and other responsibilities relating to the Resources performed or money paid prior to termination. In addition to its other rights of hold back or set off, the Client may hold

back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

#### **9.6 Termination in Addition to Other Rights**

The express rights of termination in the CSA are in addition to and shall in no way limit any rights or remedies of the Client or the Supplier under the CSA, at law or in equity.

### **ARTICLE 10 – PUBLICITY**

- 10.1** Any publicity or publications related to this CSA or the Resources shall be at the sole discretion of the Client. The Client may, in its sole discretion, acknowledge the Resources of the Supplier in any such publicity or publication. The Supplier shall not make use of its association with the Client without the prior written consent of the Client.

### **ARTICLE 11 - LEGAL RELATIONSHIP BETWEEN CLIENT, SUPPLIER AND THIRD PARTIES**

#### **11.1 Supplier's Power to Contract**

The Supplier represents and warrants that it has the full right and power and all necessary licences, authorizations and qualifications to enter into and perform its obligations under this CSA and that it is not a party to any agreement with another Person which would in any way interfere with the rights of the Client under this Contract.

#### **11.2 Representatives May Bind the Parties**

The parties represent that their respective signatories have the authority to legally bind them.

#### **11.3 Independent Contractor**

This CSA is for a particular and non-exclusive service. The Supplier shall have no power or authority to bind the Client or to assume or create any obligation or responsibility, express or implied, on the Client's behalf, or to hold itself out as an agent, employee or partner of the Client. Nothing in the CSA shall have the effect of creating an employment, partnership or Institution relationship between the Client and the Supplier. For the purposes of this paragraph, the Supplier includes any of its directors, officers, employees, agents, partners, affiliates, volunteers or the Supplier's Subcontractors.

#### **11.4 Subcontracting or Assignment**

The Supplier may subcontract or assign this Agreement in whole or any part to any corporation or other business entity that is controlled by or is under common control of the Supplier. Control exists when an entity owns or controls directly or indirectly the outstanding equity representing the right to vote for the election of directors or other managing authority of another entity. If this Agreement is subcontracted or assigned to such a corporation or business entity, the Supplier shall remain jointly and severally liable with such corporation or business entity for all obligations hereunder.

The Supplier shall not subcontract or assign the whole or any part of the CSA or any monies due under it, other than as outlined above without the prior written consent of the Client, not to be unreasonably withheld. Such consent shall be in the sole discretion of the Client and subject to the terms and conditions that may be imposed by the Client. Without limiting the generality of the conditions which the Client may require prior to consenting to the Supplier's use of a Supplier's Subcontractor, every contract entered into by the Supplier with a Supplier's Subcontractor shall adopt all of the terms and conditions of the Master Agreement and the CSA as far as applicable to those parts of the Resources provided by the Supplier's Subcontractor. Nothing contained in the Master Agreement or the CSA shall create a contractual relationship between any Supplier Subcontractor or its employees and the Client.

### **ARTICLE 12 – GENERAL**

#### **12.1 Severability**

If any term or condition of the CSA, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the CSA, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

#### **12.2 Force Majeure**

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the CSA where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the CSA would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism and labour disruptions but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this CSA due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the CSA by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the CSA, at law or in equity.

### **12.3 Changes By Written Amendment Only**

Any changes to the CSA shall be by written amendment signed by both parties. No changes shall be effective or shall be carried out in the absence of such an amendment.

### **12.4 Section 217 Education Act et. al.**

The Supplier represents and warrants that it has not employed, and that it will not during the Term employ, any teacher, supervisory officer or other employee of an Ontario district school board or of the Ontario Ministry of Education to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario district school board, provincial school or teachers' college, or to any pupil enrolled therein, and that it has not given or paid, and will not during the Term give or pay, directly or indirectly, compensation to any such teacher, supervisory officer or employee for such purpose.

The Supplier further represents and warrants that it has not employed, and that it will not during the Term employ, any member of faculty or other employee of an Ontario college or university to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario college or university, or to any student enrolled therein, and that it has not given or paid, and will not during the Term give or pay, directly or indirectly, compensation to any such member of faculty or employee for such purpose where such employment or compensation would place the member of faculty or employee in a Conflict of Interest with the college or university by which he or she is employed.

### **12.5 Criminal Records Check**

The Supplier covenants and agrees that it will not engage any employee or other person to perform services for the Supplier who may come into direct contact with students on a regular basis, or who may have access to student information to provide services hereunder, where such employee or other person has been charged with or convicted of an offence the nature of which may be construed as jeopardizing the safety and well-being of the students of the Client. For the purposes of this CSA, the Client shall determine in its sole and unfettered discretion whether an employee of the Supplier or such other person may come into direct contact with students on a regular basis or have access to student information and whether or not any such offence is of a nature which may be construed as jeopardizing the safety and well-being of students.

The Supplier covenants and agrees to retain on file at its head office a criminal background check covering convictions, charges and occurrences under the Criminal Code, the *Controlled Drugs and Substances Act*, and any other convictions, charges and occurrences which would be revealed by the long version Vulnerable Persons search of the automated Criminal Records Retrieval System maintained by the Royal Canadian Mounted Police ("RCMP") ("Criminal Background Check"), together with an Offence Declaration in a Client approved form for every employee of the Supplier or other person who will perform services for the Supplier who may come into direct contact with students on a regular basis or who may have access to student information, prior to the occurrence of such possible direct contact or prior to having access to student information and on or before September 1<sup>st</sup> each year thereafter with respect to Offence Declarations.

The Supplier agrees to indemnify and save harmless the Client from all claims, liabilities, expenses and penalties to which it may be subjected on account of: the Supplier engaging an employee or other person to perform services in contravention of this paragraph 12.5; or the Supplier's failure to retain a Criminal Background Check or an Offence Declaration on file, as aforesaid. This indemnity shall survive the expiration or sooner termination of this CSA. In addition to and notwithstanding anything else herein contained, if the

Supplier engages an employee or other person to perform services in contravention of this paragraph 12.5, or fails to retain a Criminal Background Check and an Offence Declaration for any employee of the Supplier or other person who performs services for the Supplier who may come into direct contact with students on a regular basis, or who may otherwise have access to student information prior to the occurrence of such possible direct contact, or prior to having access to student information and on or before September 1<sup>st</sup> each year thereafter with respect to Offence Declarations, then the Client will have the right to immediately terminate this CSA without prejudice to any other rights which it may have in this CSA, at law or in equity.

The Client shall be entitled, on forty-eight (48) hours prior written notice to attend at the head office of the Supplier for the purposes of reviewing the Criminal Background Checks and Offence Declarations. The parties acknowledge and agree that it is contemplated that the Client may attend to such reviews at least twice per year during the Term, and any renewal thereof.

In the event that either the Criminal Background Check or an Offence Declaration reveals a charge or a criminal conviction which is not acceptable to the Client in the circumstances and in its sole and unfettered discretion, then the Client will have the right to request that the Supplier prohibit the employee of the Supplier or other person who performs services for the Supplier from providing services to the Client hereunder. Upon such request, the Supplier will forthwith effect such removal, without prejudice to any other rights which the Client may have in this CSA, at law or in equity.

The Supplier will use a third party to conduct criminal reference checks for onsite employees or contractors supporting this CSA.

The Supplier will provide thirty (30) days written notice to OECM and the Client should the third-party provider be changed to another provider.

#### **12.6 Purchasing Policies and Guidelines**

The Supplier agrees to comply with the Client's purchasing or administrative policies and guidelines which apply to the provision of Resources under this CSA. Copies of the applicable policies and guidelines are attached as Appendix C to this CSA.

#### **12.7 Harassment and Assault**

Without limiting the generality of the foregoing, the Supplier is required to comply with the Client's policies with respect to sexual harassment, workplace harassment, workplace violence, prohibited discrimination and harassment, and health and safety. The Supplier must cooperate with the Client in any investigation undertaken by the Client pursuant to such policies.

**IN WITNESS WHEREOF** the parties hereto have executed this Client-Supplier Agreement as of the date first above written.

**THE CORPORATION OF THE TOWN OF FORT FRANCES**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
June Caul, Mayor  
Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Elizabeth Slomke, Clerk  
Name

\_\_\_\_\_  
Date

I have authority to bind the Client. By signing this Client-Supplier Agreement, I also consent to receive email communications from OECM, which may include announcements related to changes in products, services and pricing on this and other Agreements.

**FASTENAL CANADA, LTD.**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

I have authority to bind the Supplier

## **APPENDIX A – RESOURCES AND SUPPLEMENTARY PROVISIONS**

### **1.1 Description of Resources**

The Supplier will provide Resources that meet the requirements as set out in this Master Agreement.

### **1.2 Resource Requirements**

Resources supplied must have CSA Group (formerly known as the Canadian Standards Association) and/or Underwriters Laboratories of Canada Product approval.

During the Term, the Supplier may be requested to provide proof of meeting or exceeding the applicable standards upon OEM or the Client's request.

#### **1.2.1 Reseller Authorization**

The Supplier must be the authorized reseller of all Resources.

During the Term, the Supplier must maintain the authorized reseller status for all Resources and provide proof of its status upon OEM's request. The Supplier must advise OEM of any changes to their reseller status within thirty (30) days of such change.

### **1.3 Resource Specification**

The Supplier will provide new and unused Resources under the following categories:

- Category A – Machinery, Pneumatics/Hydraulics, Power Transmission and Tools;
- Category B – Fleet Maintenance, Handling & Storage, and Lubricants, Coolants & Fluids;
- Category C – Fasteners, Metalworking, Welding and Raw Materials;
- Category D – Outdoor Resources & Equipment, Painting & Supplies; and,
- Category E – Safety and Security.

### **1.4 Resource Catalogues**

The Supplier will provide to Clients one (1) or more catalogues with Resource details and images, in electronic format. The Supplier will also provide to Clients a customized online ordering website with the relevant Master Agreement Rates.

The Supplier will provide Clients with both an English and French language catalogues.

### **1.5 Description of Core and Non-Core Resources**

#### **1.5.1 Core Resources**

Core Resources are the high usage Resources commonly used by Clients.

#### **1.5.2 Non-Core Resources**

Non-core Resources are those in addition to the core Resources that a Client would purchase from the Supplier during the Term of the Master Agreement, regardless if they are included in the Supplier's published standard catalogue (e.g. typically published annually).

### **1.6 Ordering Process**

The Supplier will support a variety of ordering methods, including but not limited to:

- Client's Enterprise Resource Planning ("ERP") solution;
- Electronic Data Interchange ("EDI");
- In-person purchase or ordering at the Supplier's branch location. The Supplier has eighty-four (84) branch locations covering Ontario (<https://www.fastenal.com/locations>);
- By phone;



- By electronic mail (or email) to a Supplier representative or central ordering centre; and,
- By online with a secure and dedicated login for Resources and Rates established under this Master Agreement.

The Supplier will provide a two (2) stage approval process for placing orders online. Stage 1, the Client's user places an order request online. Stage 2, the Client's user's manager approves or rejects the order request. If rejected, the order is not placed. If approved, the Supplier will fulfill that order request.

Clients may request to conduct testing the Supplier's online ordering system to ensure it is compatible with Clients' systems, policies and procedures.

The Supplier must ensure that only orders with a valid purchase order number are accepted unless the Client and the Supplier revise this requirement in the Client Supplier Agreement ("CSA").

#### **1.6.1 Order Acknowledgement and Substitutions**

The Supplier will notify the Client immediately or within one (1) Business Day of receiving a Client's order request detailing when the order will be delivered and Resources on backorder. The response will be in writing (e.g. email). On rush orders, the Supplier should confirm by telephone, but follow up with an email. The Supplier will include in this acknowledgement, any Resource ordered that cannot be fulfilled.

The Client may:

- Agree on substitute Resources recommended. The Client may return the substitute Resources in the event it does not fulfill the Client's needs. The Supplier will bear all costs for return;
- Cancel some or all of the order, which cannot be fulfilled exactly as ordered; or,
- Ask the Supplier to ship only available Resources and cancel any backorders.

The Client may change or cancel an order at no additional cost up to the point of shipping.

In the event that specific a Resource is not available to fulfil the Client's order, the Supplier will only substitute Resource upon advance approval from Client's designated personnel with a Resource of equal or better functionality at no additional cost.

#### **1.6.2 Resource Availability and Allocation**

The Supplier will provide notice to OEM and Clients within twenty-four (24) hours of the Supplier discovering any potential supply concern.

The Supplier will provide OEM and Clients with their resolution to the situation within twenty-four (24) hours of notification.

#### **1.6.3 Electronic Commerce**

Clients currently use a variety of ERP, e-Procurement or financial systems (e.g. PeopleSoft). When Clients implement various methods for electronic ordering, such as integrated system and Electronic Data Interchange ("EDI"), the Supplier will provide reasonable technology and implementation support to Clients as mutually agreed between Client and Supplier, at no additional cost.

#### **1.6.4 No Minimum Order**

There is no minimum order value or quantity requirement for Clients using this Master Agreement.

#### **1.7 Resource Delivery**

The Supplier will deliver orders with correct Resources and quantities.

All Resources will be Delivered Duty Paid ("DDP") to inside the door or the dock of the Client's location as requested.

Delivery charges of any kind (e.g. for orders, replacements, recalls, returns, warranty) will **not** be accepted or paid.

Clients may have more than one (1) location within their organization (e.g. one hundred (100) individual schools, three (3) campuses) and may have more than one (1) delivery location within one (1) delivery address (e.g. two (2) mini-inventory locations in one (1) campus). The Supplier and Client will set out this arrangement when signing a CSA.

The Supplier is responsible for delivering all Resources to the Client's location. The Client will not be responsible for any delivery activities.

Resources will be packaged appropriately to ensure safe delivery. All deliveries must include a packing slip specifying the Client's required information (e.g. name of the employee who placed the order, purchase order number, description and quantities ordered and shipped, back orders, if any).

The Client and Supplier may agree to other delivery terms (e.g. in order for the Supplier to reduce its environmental footprint, or to satisfy the Client's schedule) which are mutually beneficial to each party.

Deliveries must be made by the Supplier's own transportation fleet or a reputable transportation company that allows for tracking of the shipments.

#### **1.7.1 Lead Time**

The Supplier will deliver Resources ordered by next Business Day or within forty-eight (48) hours for core Resources, understanding that there may be extenuating circumstances (e.g. a longer delivery lead-time when purchasing special Resources). Non-core Resource lead-times will be confirmed by the Supplier at the time of ordering.

#### **1.7.2 Damaged or Defective Shipment**

The Supplier will ensure the Resources meet the Client's specified quality levels and specifications.

Resources may not be accepted upon delivery if:

- The Resources or packaging of Resources are defective (e.g. broken and/or damaged);
- The Resources or packaging of Resources are not delivered as agreed; or,
- The Resources were substituted without prior approval of the Client.

The Supplier will be responsible for all shipping costs related to the return and replacement of any damaged or defective Resources from the Client's location. Clients will not be responsible for any re-stocking charges due to damaged or defective Resources received.

#### **1.7.3 Resource Returns**

For Resources ordered in error by the Client, the Supplier will accept returns. There will be no restocking fees, associated shipping or any other fees to Clients for Resource returns.

Resource refunds options are either a credit applied to the Client's account, or an exchange for another Resource depending on the Client's preference.

#### **1.8 Discontinued Resources**

The Supplier will not arbitrarily discontinue Resources. When Resources are to be discontinued, the Supplier will provide a manufacturer's supporting letter to OEM. The Supplier will also work with Clients to provide the opportunity for Clients to purchase any remaining stock of the discontinued Resource. This approach will be carried out in a fair manner for all Clients that require the discontinued Resource.

#### **1.9 Resource Warranty**

The Supplier will warrant all Resources from the date of receipt for the length of the manufacturer's warranty period, but not limited to the following conditions:

- Faulty material; and,
- Manufacturing defects.

The Supplier will register the equipment Resources for warranty and manage manufacturer's warranty coverage upon delivery.

The Supplier will provide any special assembly, installation, care or maintenance instructions that must be followed to make a claim on the warranty directly to the Client on purchase of the Resource, unless directed otherwise by the Client.

Where a manufacturer's standard warranty applies to the Resource, the Supplier will be responsible for arranging Resource exchanges and repairs. For all Resources with warranty coverage, costs of parts, labour,

and shipping to and from the Client's location on all Resources associated with repairs and/or replacement and this will be at no cost to the Clients.

All warranty related repairs will be performed by a certified technician. Where possible, the Supplier should always repair at the Client's location to minimize equipment downtime.

The Suppliers contact information is:

- Client telephone support during Business Days; and,
- A toll-free telephone number: 1-877-FASTENAL (32783625).

The warranty process is as follows:

- Warranty claim is submitted by the Client. The Supplier will review and address the claim. Clients should provide complete information concerning their warranty claim, including without limitation the date of purchase, nature of the use and general application of the Resource purchased and details surrounding the failure;
- When submitting a warranty claim, send the required information to the Supplier by email to [canadagov@fastenal.com](mailto:canadagov@fastenal.com);
- On receipt of the claim, the Supplier will conduct an investigation into the claim and, as needed, consult with the manufacturer of the Resource. The time to complete the full claims process varies from Resource to Resource. The Supplier will complete the claims process within three (3) weeks for most Resources. The Supplier will advise the Client at the point of claim submission if the process will take longer, and the reason for that extended process time;
- On completion of the investigation, the Supplier will provide a resolution to the Client; and,
- The time to complete an investigation and closing a warranty claim varies depending on various factors associated with the claim. The Supplier will exercise reasonable efforts to investigate, respond to and resolve such warranty claims in a timely manner.

#### **1.10 Resource Trade-In**

The Supplier may offer Clients discounts and/or credits for the use of old equipment no longer required. Details will be mutually agreed upon and outlined in the CSA.

#### **1.11 Resource Related Services**

The Supplier will provide Resource related services to support Client's usage including but not limited to the following:

- Post manufacture warranty Resource repair services;
- Preventative maintenance services; and,
- Technical support on using the Resource.

The Supplier will provide a quotation on the specific post-warranty repairs including costs associated with labour, parts and shipping if applicable for Client's prior approval.

The Supplier will provide Clients with a report on preventative maintenance and repair services upon request.

#### **1.12 Supply Chain Programs**

The Supplier will provide supply chain programs at no additional cost to Clients which can include but is not limited to the following:

- Vendor Managed Inventory ("VMI") – where the Supplier manages the Clients inventory of Resources, freeing up Clients manpower to do other activities;
- Consignment Inventory – Resources are stored in the Clients warehouse and only invoiced to the Client upon use. This provides safety stock to the Client at no additional cost until the Resource is used;
- Inventory Vending machines that hold key inventory Resources, issuing them only on and agreed approval process. These systems can automatically notify the Supplier when the inventory of Resources runs low;

- Resource standardization and substitutions – supporting Clients to reduce the variety of Resources purchased, allowing improved procurement efficiencies;
- Preventative maintenance project kits - allowing Clients who have regular maintenance work to create a single kit which contains a list of Resources required to complete a task (e.g. monthly maintenance on a vehicle requires the same specific Resources each month). The kit is ordered and inventoried as a single Resource number to provide ease of selection by the Client; and,
- Reduction in or reusable packaging.

### **1.13 Environmental Considerations**

OECM and its Clients are committed to reducing the carbon footprint. The Supplier will keep OECM and Clients informed about any environment-friendly Resources, new technologies and green initiatives.

The Supplier offers a range of environmentally preferable Resources which all hold the green leaf symbol on the Suppliers website. Green Resources promote sustainability through energy conservation, green cleaning and maintenance, waste reduction and water conservation.

Further opportunities include:

- Offering recycling programs for lamps, ballasts, mercury-containing devices, batteries, and Personal Protective Equipment ("PPE") Resources ensuring safe disposal; and,
- Industrial vending machines. These can help reduce wasteful consumption of Resources as usage is controlled by the supervisor who has responsibility to encourage reduced consumption. This can lead to significant cost savings for an organization who actively manage this process.

### **1.14 Resource Samples**

From time to time, Clients may be required to test one (1) or more Resources before a purchase (e.g. substitution or alternates) or prior to signing a CSA. The Supplier and the Client will work together to agree an approval process which will include any costs associated with the sample Resource.

### **1.15 Promotional Discounts**

Supplier will offer to Clients special promotions to kick off new Resource lines, sell-off discontinued inventory, and/or end-of-line Resources.

### **1.16 Training**

The Supplier will provide Resource training required at no cost to Clients to ensure the correct operation of any Resources purchased under this Master Agreement.

### **1.17 Technical Support**

The Supplier will provide technical support services to Clients at no additional cost, including, but not limited to, the following:

- A phone number for technical support and warranty support during the Business Day;
- 24/7 online access to training and maintenance documentation; and,
- Manuals supplied with the Resources.
- A Supplier sales representative is also available to provide on-site and on-call support for Clients.

### **1.18 Other Resources**

During the Term of the Master Agreement, if mutually agreed by OECM and the Supplier, other Resources may be added to the Master Agreement to align with Client needs. Master Agreements will be amended accordingly.

### **1.19 Quality Management**

The Supplier operates an ISO 9001:2015 quality system across the organization. Full details can be found at <https://www.fastenal.com/en/729/quality-assurance>.

## **1.20 Invoicing**

The Supplier will submit an invoice per shipment (aligned with packing slip) to the Client's Finance Department after Resources have been delivered as applicable, to the appropriate Client locations.

Flexibility in invoicing processes is required. The Supplier will, for Clients using SciQuest, support cXML and/or portal invoicing functionality.

The invoices, in either paper or electronic format, as detailed in the Client's CSA will be itemized and contain, at a minimum, the following information:

- Client's name and delivery address;
- Invoice date and number;
- Name of the person who placed the order and/or the Client's purchase order number, as required;
- Detailed description of Resources invoiced, quantity and Rates including Suppliers list price, percentage discount off the Suppliers list price and net Rate;
- Client's cost centre number, general ledger number, as required; and,
- Extended total and Harmonized Sales Tax ("HST").

## **1.21 Payment Terms and Methods**

The Client's common payment terms are net thirty (30) days. Different payment terms, however, may be agreed to when executing CSAs (e.g. 2%/10 early payment discount for Clients).

Note – Client's payment terms will **not** be in effect until the Supplier provides an **accurate** invoice.

The Supplier will accept payment from Clients by cheque, Electronic Funds Transfer ("EFT") or Purchasing Card at no additional cost.

### **1.21.1 Electronic Fund Transfer**

The Supplier will provide the Client with the necessary banking information to enable EFT for any related invoice payments. The necessary information includes, but is not limited to:

- A void cheque;
- Financial institution's name;
- Financial institution's transit number;
- Financial institution's account number; and,
- Email address for notification purposes.

### **1.21.2 Financial Incentives to Clients**

Where feasible, the Supplier will propose financial incentives to Clients to promote additional cost savings resulting from operational efficiencies or marketing opportunities that may include, but are not limited to:

- Increased online ordering;
- Scheduled deliveries;
- Use of a Purchasing Card;
- EDI invoicing and payment processes;
- Early payment discount for Clients;
- Higher volumes/overall growth in business; and,
- Supply Chain efficiencies such as vending machines, on-site consignment inventory and VMI which lead to better management of Resources and reduced manpower requirements which leads to reduced costs for the organization.

The Client and Supplier will mutually agree on the option to receive these financial incentives in a format of a lower Rate.

The Client may negotiate specific details related to one (1) or more financial incentives.

The financial incentives the Supplier and Client agree to will be incorporated into the CSA and reviewed and adjusted (e.g. annually), as required and reported to OEMC in the spend report on a monthly basis for each Client.

## **1.22 Customer Support to Clients**

The Supplier will provide effective Customer support to Clients including, but not limited to:

- A responsive account executive (or team of personnel lead by an account executive) assigned to the Client to support their needs by providing day-to-day and ongoing ordering, administrative, operational support and issue resolution;
- Responding to Client's inquiries (e.g. to day-to-day activities) within one (1) Business Day;
- Easy access to the Supplier (e.g. by online, telephone number, email, and voicemail) during Client's Business Day;
- Knowledge transfer, and no-charge educational events (e.g. webinars), if available;
- Perform Customer satisfaction surveys coordinated with OEMC;
- Attend meetings with Clients, as requested;
- Provide a Supplier's sales representative to provide on-site and on-call support;
- Access to a Supplier's sales specialist who focuses on government agencies, higher education and who can help with best practice, compliance and training; and,
- Provide reports, upon request.

## **1.23 Master Agreement Management Support to OEMC**

OEMC will oversee the Master Agreement, and the Supplier will provide appropriate Master Agreement management support including, but not limited to:

- Assigning an OEMC account executive responsible for overseeing all aspects of the Client relationship and issues, providing OEMC support of the Master Agreement;
- Working and acting in an ethical manner demonstrating integrity, professionalism, accountability, transparency and continuous improvement;
- Promoting the Master Agreement within the Client community;
- Attending periodic (e.g. quarterly, semi-annually or annually) business review meetings with OEMC to review:
  - The previous period's Performance Management Scorecard;
  - CSAs and upcoming opportunities will be identified to OEMC (active and those pending);
  - Resources and potentially other related Resources to support Client's business requirements;
  - Issue management and opportunities for improvement;
  - Review and monitor performance management compliance;
- Monitoring, managing and reporting pricing, savings and Customer satisfaction; and
- Timely submission of reports showing invoiced Resources, the applicable CRF, and other ad hoc reports requested.

### **1.23.1 Supplier's Performance Management Scorecard**

To ensure Master Agreement requirements are met, the Supplier's performance will be measured and tracked by OEMC to ensure:

- On time delivery of high-quality Resources at the Master Agreement Rates;
- Exceptionally high Client satisfaction levels are maintained;
- On-time Master Agreement activity reporting to OECM;
- On-time Cost Recovery Fee remittance; and,
- Continuous improvement.

During the Term, the Supplier will collect and report the agreed upon Service Level Agreement's ("SLAs") as requested by OECM. The Supplier's Performance Management Scorecard and other performance indicators will be used to measure the Supplier's performance throughout the Term of the Master Agreement, ensuring Clients receive quality Resources. The Supplier's performance score will be considered when OECM contemplates Master Agreement decisions, such as:

- The approval or rejection, in whole or in part, of Supplier Rate refresh requests;
- The approval or rejection of Supplier request to add other related Resources to the Master Agreement;
- Master Agreement extensions; and,
- Master Agreement termination;

The Supplier will maintain accurate records to facilitate the required performance management reporting requirements. Refer to Appendix C – Supplier's Performance Management Scorecard for more details.

A Client may, when executing a CSA, seek other KPIs and SLAs.

#### **1.23.2 Supplier Recognition Program**

In order to strengthen OECM's relationships with supplier partners and drive greater performance, OECM will be introducing a Supplier Recognition Program ("SRP") in 2020. OECM will objectively evaluate supplier partner performance using an open, fair, and transparent framework based on supplier partner performance, generated savings and value, technical strength and agreement performance.

The SRP will drive long-term supplier partner performance by recognizing and motivating supplier partners to deliver continued savings, choice and service to Clients.

Through the SRP OECM will classify supplier partners into (1) of four (4) categories: Platinum, Gold, Silver and Bronze based on objective criteria.

The SRP is not intended to constitute an endorsement by OECM of any particular supplier partner.

#### **1.23.3 Reporting to OECM**

The Supplier will be responsible for providing reports to OECM as further described below, including but not limited to:

- Sales reports (e.g. including Client name, invoice number and date, description of Resources, percentage discount off Supplier's list Price and net Rate, and delivery address);
- Supplier's Performance Management Scorecard;
- CSA status and Second Stage Selection Status; and,
- Other ad hoc reports requested by OECM.

Appendix D – Reporting Requirements provides a full list of the Supplier's reporting requirements under the Master Agreement.

#### **1.23.4 Sales Reports**

The Supplier will be responsible for providing monthly sales reports to OECM. The reports will include, but not be limited to:

- Client's organization name;
- Client's sector (College, School Board, University or other BPS entities);
- Client's address where the Resources were delivered to;

- Resource details (e.g., description, manufacturer's part number, the Supplier's part number);
- Quantity;
- Rates and Total cost (subtotal excluding taxes); and,
- Cost Recovery Fees.

#### **1.23.5 Second Stage Selection Process Report**

The Supplier will be responsible for providing quarterly Second Stage reports to OECM as further described below, including but not limited to:

- Second Stage Selection Process reference numbers;
- Client's organization name;
- Client contact;
- Second Stage summary (e.g. Resource requested, committed volume);
- Value of the Second Stage Selection Process;
- Savings; and,
- Second Stage status (e.g. submitted to Client, due date to Client).

The Supplier will be responsible for any other ad hoc reports requested by OECM.

#### **1.23.6 CSA Status Report**

CSA reports should at a minimum include the status of the CSA (e.g. pending, completed).

#### **1.24 Disaster Recovery and Business Continuity**

The Supplier is to provide to OECM and/or Clients upon request, relevant information about the Supplier's disaster recovery and business continuity program including the process, policies and procedures related to safety standards, preparing for recovery or continuation of services' and support critical to Clients.

#### **1.25 Licenses, Right to Use and Approvals**

Supplier will obtain all permits, licenses, and approvals required in connection with the supply of the Resources. The costs of obtaining such permits, licenses, and approvals will be the responsibility of, and will be paid for by, the Supplier.

Where a Supplier is required by Applicable Laws to hold or obtain any such permit, licence, and approval to carry on an activity contemplated in its Proposal or in the Master Agreement, neither acceptance of the Proposal nor execution of the Master Agreement by OECM will be considered an approval by OECM for the Supplier to carry on such activity without the requisite permit, license, or approval.

#### **1.26 Documentation**

The Supplier will maintain all necessary records related to the provision of the services for seven (7) years after the expiration of the Term of the Master Agreement.

#### **1.27 Electrical Requirements**

Any electrical Resources being proposed for consideration pursuant to this RFP must be authorized or approved in accordance with the Electrical Safety Code or by a certification organization accredited with the *Standards Council of Canada Act* (Canada), and will bear the certification organization's mark identifying the goods certified for use in Canada. Certification will be to the standard that is appropriate for the intended use of the electrical Resources at Client's facilities. On the request from OECM or the Client, the Supplier will provide satisfactory evidence of such certification, as applicable.

#### **1.28 Workplace Hazardous Materials Information System (WHMIS)**

The Supplier will ensure Workplace Hazardous Materials Information System ("WHMIS") Safety Data Sheets ("SDS") are onsite as required. Additionally, the Supplier should provide the Client's personnel WHMIS training, as it relates to the Resources, in accordance with the *Ontario Occupational Health and Safety Act*.



## **APPENDIX B – RATES**

### **Maximum Rates**

The Resource Rates, as set out in a separate file are firm Rates for the first year of the Master Agreement. There are two (2) types of Rates as shown below:

- Maximum net Rates for core Resources; and,
- Minimum percentage discount off Supplier's Resources list for non-core Resources.

The Supplier may, however, lower its maximum net Rates or increase its minimum percentage discount off Supplier's Resource list price for specific Client Resources without affecting the Rates in the Master Agreement.

The Supplier shall invoice Clients at the lowest Rate if a Resource is offered on multiple OEMC Master Agreements then currently in place with the Supplier.

In extenuating circumstances, OEMC may consider a Rate adjustment substantially effecting the provision of Resources resulting from new or changed municipal, provincial, or federal regulations, by-laws and fluctuations in foreign exchange rates as published by the Bank of Canada, tariffs, or ordinances. OEMC may use a third party index (e.g. Consumer Price Index ("CPI")) in its Rates review. Any such request from the Supplier must be accompanied by documentation deemed appropriate by OEMC. The Supplier must submit documentation demonstrating the request effects the Resources in this Master Agreement. OEMC will not consider any fixed costs or overhead adjustments in its review of the Supplier's documentation.

### **Coordinating Bulk Purchases**

The Supplier must support coordinated bulk purchases initiated by OEMC and/or Clients for several Clients during the Term of the Master Agreement. If this occurs, OEMC or the Clients may negotiate a lower Rate with the Supplier for bulk purchases. Lead-time for bulk purchases may differ from that set out in section 1.7.1 OEMC or the Client will ensure reasonable lead-times for bulk purchases are requested.

### **Second Stage Selection Process**

The Second Stage Selection Process is managed by the Client or by OEMC on the Client's behalf, and is focused on the Client's specific needs. Depending on the Client's internal policies, and potential dollar value of the Resources a Client may select a Supplier, or seek Rates and other relevant Resource information specific to a Client's organization (e.g. by issuing a non-binding request via a Second Stage tool (e.g. Request for Services ("RFS"), Quick Quote ("QQ"), or Client's process (e.g. directly or via an online e.tendering platform) from the Supplier for their specific Resource requirements. If selected by the Client, the Supplier shall provide the Resources in accordance with the specifications stated in the Master Agreement and in the Client's Client-Supplier Agreement.

When a Second Stage request is issued, which does not constitute a contract A, contract B situation, it will identify the required Resource or it may request the Supplier to propose appropriate Resources to fulfill the Client's requirements and any other applicable information. The Client may negotiate their unique requirements with the Supplier and mutually agree to additional terms and conditions (e.g. reporting, Rates, payment terms) ensuring the additional terms and conditions are not in any way inconsistent with this Master Agreement.

The Supplier must respond to a Second Stage Selection Process request and, at minimum, the response should set out the following:

- Proposed Resources;
- Timelines for Resources; and,
- Final, net Rates (the Rates shall be valid for a period of not less than ninety (90) days). Limited time offer Rates and/or promotional Rates must be specified by the Supplier, if applicable to the specific Second Stage request.

Clients are not obligated to sign a Client-Supplier Agreement to obtain specific Resources Rates. However, a Client-Supplier Agreement must be signed before the provision of any Resource commences.

### Optional Rate Refresh

If requesting a Rate refresh, the Supplier shall provide a one-hundred-and-twenty (120) days written notice to OEMC each year, as per the dates in the table below:

#### (1) July 25<sup>th</sup> Rate Refresh

Activity	Deadline
Supplier submits request to OEMC together with supporting documents	March 27 (preceding)
OEMC's deadline to send communication to Clients	June 25 (preceding)
Effective date of new agreed upon Rates	July 25

As part of any review OEMC will consider Rate adjustments that reflect changes in operational adjustments due to new or changed municipal, provincial, or federal regulations, by-laws, substantial fluctuations in foreign exchange Rates as published by the Bank of Canada, tariffs, or ordinances. OEMC may use a third party index (e.g. Consumer Price Index ("CPI")) in its Rates review. Any such request from the Supplier must be (supported by the original equipment manufacturer ("OEM") and) accompanied by documentation deemed appropriate by OEMC. OEMC will not consider any fixed costs or overhead adjustments in its review.

A substantial exchange rate fluctuation between the Canadian dollar ("CAD") and the United States dollar ("USD") shall be based on the following:

- A baseline rate will be established by using the applicable six (6) month average USD-to-CAD exchange rate. For example, the six (6) month average for the period July – December 2017 was one-point-two-six-two-zero-three-three-three-three (1.26203333);
- Where the applicable six (6) month average USD-to-CAD exchange rate has a variance of a plus or a minus five percent (+/- 5%) or greater to the baseline rate, a downward or upward adjustment in Rates may be considered; and,
- The applicable six (6) month average USD-to-CAD exchange rate used shall be as published by the Bank of Canada.

Any such request from a Supplier to increase Rates due to substantial fluctuations in the USD-to-CAD exchange rate, at the times set out above, must be accompanied by sufficient supporting evidence, as determined by OEMC, which demonstrates that the fluctuation in the exchange rate had direct impact on the Rates of the Resource.

Volumes and Master Agreement management performance (i.e. Performance Management Scorecard and/or Supplier Recognition Program evaluation results) will be considered by OEMC when contemplating the approval or rejection of a Supplier's Rate refresh request.

If a proposed Rate refresh was agreed upon between OEMC and the Supplier, the new Rates would only be applicable to the Resources ordered after the effective date of the new Rates. The effective date of the Rate change must allow Clients a minimum of thirty (30) days prior notice. If, however, a proposed Rate increase is not accepted by OEMC the Master Agreement shall be terminated within one-hundred and twenty (120) days unless the Supplier agrees to withdraw its request for a Rate increase and continue the provision of the Resources at the lower agreed upon Rates.

If a pricing refresh request is not requested, the Rates and Percentage Discounts from the previous period shall remain in effect until the next pricing refresh opportunity.

Decreases to the maximum Rates and increases to Percentage Discounts shall be accepted at any time during the Term of the Master Agreement.

Based on the above, the Master Agreement will be amended, if needed.

### Optional Core and Non-Core Resource Refresh

During the Term of the Master Agreement, if mutually agreed upon by OEMC and the Supplier, other Resource (e.g. emerging technology/innovation) may be added to the Master Agreement to align with Client needs.

Rates or Percentage Discounts, for newly added Resource, will be negotiated at the time ensuring they align with similar Resource already on the list. All other Core Resources and Non-Core Resources shall remain unchanged, unless adjusted as described in the Optional Rate Refresh. Supplier's Performance Management Scorecard will be

considered by OEMC when contemplating a Resource refresh approval. In the event the Supplier's performance is poor and/or unacceptable, OEMC may not agree to the Supplier's Resources refresh request.

Clients expect stability in their Non-Core Resource and pricing; therefore, OEMC will review Non-Core Resource list and pricing during the Term of the Agreement, as described in the Optional Rate Refresh.

The Supplier may request a Resource refresh, annually beginning on the anniversary of the Master Agreement start date. A Supplier wishing to add other Resource may do so if agreed to by OEMC. The Supplier shall provide a written notice to OEMC at least one hundred and twenty (120) days prior to the anniversary of the agreement start date annually, if requesting a Rate or Percentage Discount refresh.

The first Resource refresh will occur and become effective on the anniversary of the Master Agreement start date with subsequent review occurring annually thereafter. Any Resource refresh request from the Supplier must be accompanied by appropriate documentation, such as detailed calculations, Resource description, original equipment manufacturer, part number, supplier part number, and rationale for the Resource addition.

Master Agreements will be amended accordingly, if necessary.

### **Savings**

OEMC tracks, validates, and reports on savings on all of its agreements. Collaborative procurement processes generate various opportunities for savings including direct discounts and indirect savings (e.g. process improvement, lead time reduction, standardization, economies of scale, cost avoidance).

Upon Client's approval to OEMC, the Supplier shall provide OEMC with the Client's historical spend (e.g. baseline information) prior to the effective date of this Master Agreement if applicable to facilitate savings calculations and develop analysis

### **No Minimum Volumes**

The Supplier will not be permitted to charge a minimum volume and/or dollar amount value for orders during the Term of the Master Agreement.

### **Pricing Audit and Management**

The Client, OEMC, or OEMC on behalf of a Client, may request Rate audits on Resources provided during the Term (including all Rates) of the Master Agreement. The Supplier shall provide supporting documents as deemed acceptable by the Client, OEMC, or OEMC on behalf of a Client within thirty (30) calendar days from the date of the request. The supporting documents for pricing audits may include but are not limited to quotations and final invoices, as applicable.

**[Refer to Appendix B of the Master Agreement]**

## APPENDIX C - CLIENT'S POLICIES AND GUIDELINES

[Clients may wish to insert their purchasing policies and guidelines under the Client-Supplier Agreement. For example, the Client's Accessibility for Ontarians with Disabilities policy, environmental policy, diversity policies/practices, travel expense management, etc.].

[End of Client-Supplier Agreement]