

ATTACHMENT "E"

TERMS OF SUPPLY AGREEMENT WITH CROWN-VERITY

The following is a concise summary of the major terms and conditions which shall be included in the long form Cart Supply Agreement with Crown-Verity Inc. (the "Supplier"), along with such other terms and conditions as may be satisfactory to the Medical Officer of Health and the City Solicitor:

1. The term of the Agreement shall, unless terminated earlier, be for three (3) years.
2. The Supplier shall design, supply and install, and perform certain maintenance and repair work (the "Warranty Work") on the Carts as required under the 1-year warranty applicable to the Carts (the "Warranty") and the Agreement, at the Supplier's sole expense, and subject to the terms and conditions of the Agreement.
3. The Supplier shall have the non-exclusive right to supply the Carts for the purposes of the Pilot in accordance with the terms and conditions of the Agreement.
4. The Supplier shall ensure that the Carts are designed, manufactured, supplied and installed, and all Warranty Work is done **at no cost to the City** and strictly in accordance with the requirements of this Agreement.
5. The Supplier will, subject to the requirements of the Medical Officer of Health of the City of Toronto Health Unit (the "Medical Officer of Health"), design, manufacture, supply and install up to 15 Carts according to the following schedule:

(a)	First six (6) Carts	-	Sixty (60) Days from Receipt of
			a. Purchase Order
(b)	Remaining Carts	-	One Hundred (100) Days from
			Receipt of Purchase Order
6. The Unit Prices for the Carts as contained in the Agreement shall be fixed until June 30, 2009, after which time the Supplier shall be entitled to increase the Unit Prices to reflect any increase in the cost of raw materials for the Carts, provided that the Supplier shall provide such evidence as may be requested by the City to support the cost increase.

7. Unless otherwise required or approved by the Medical Officer of Health, all Carts shall be designed, constructed and supplied by the Supplier, at its sole expense, in accordance with the Proposal to meet or exceed the specifications contained in the Agreement. The Supplier shall ensure that the required Logo Design is placed upon the Carts in the location as stipulated in the approved Cart design.
8. The ownership and copyright entitlement to all design specifications provided by the Supplier (the “Toronto Cart Designs”) is vested in the name of the Supplier. The City undertakes not to use or suffer or permit any use, for any purpose, during the Term of the Toronto Cart Designs except as permitted herein or to the extent they are within the public domain or received by or from the City independently of this Agreement.
9. The Supplier acknowledges and agrees that all ownership and copyright or trademark entitlement in the name “Toronto a la Cart” and associated logo designs (the “Logo Designs”) is vested in the name of the City. The Supplier undertakes not to use or suffer or permit any use, for any purpose, during the Term of this Agreement of the Logo Designs except as permitted herein or to the extent they are within the public domain or received by or from the Supplier independently of this Agreement.
10. The City shall be entitled to request the supply from the Supplier of further Carts of the same or similar design or, with the further agreement of the Supplier, use the Toronto Cart Designs for the design, manufacture and installation of Carts by third parties on other types of City property, such as Streets, at any time during or after the end of the Term.
11. Except as otherwise set out in the Agreement, the Supplier and the City agree that the Vendor or other Person responsible for the operation of the Cart shall be responsible for ongoing repair and maintenance of the Cart.
12. Where Warranty Work is required by a Vendor for the Carts, the Supplier shall perform such Warranty Work in accordance with the requirements of the Agreement.
13. The Supplier agrees that it shall consult with Vendors in the requirements for the Carts to be used by Vendors, provided that the Supplier shall not be required to undertake any modifications or improvements which would differ substantially from the specifications as set out in the Agreement.
14. The Supplier shall not, without the prior approval of the Medical Officer of Health, provide a Vendor with any Cart, accessory or component other than that which is suitable and required for the purposes of the preparation and sale of the foods which the Vendor is authorized by the City to prepare and sell from a Cart at that location. The Medical Officer of Health shall provide the

Supplier with a list of Vendors, their locations and the foods permitted to be sold at the locations.

15. The Supplier shall train Vendors in the proper maintenance and operation of the Carts.
16. Vendors shall be entitled to purchase a Cart at the unit prices as set out in the Agreement.
17. The City may, at its option, request that the Supplier sell all or any number of the Carts to the City or any Person designated by the City, and the purchase price for the purchased Carts shall be as set out in the Agreement.
18. The Supplier shall at all times observe and comply with the Warranty and all generally applicable statutory requirements, rules, regulations, standards, specifications and by-laws of the City as set out in this Agreement, applicable to the work to be done under the Agreement.
19. The Supplier agrees that it shall at all times when performing work under the Agreement comply with the City's Workers' Rights, Fair Wage, Re-Employment of Former City Employees and Non-Discrimination Policies.
20. The Supplier shall indemnify and save harmless the City, its employees, officers, agents and elected officials (collectively the "Indemnitees") from any and all claims, liabilities, damages, costs, expenses, suits or actions, or other proceedings by whomsoever made, sustained, brought or prosecuted in any manner against the Indemnitees resulting from any breach, violation or non-performance of any covenant, obligation or agreement of the Supplier contained in the Agreement or any negligence or willful misconduct of the Supplier.
21. The Supplier shall purchase and maintain in force, at its own expense (including the payment of all deductibles) and for the duration of the Agreement, policies of Comprehensive General Liability, "All Risks" Property and Automobile Liability insurance in such form and amount as required under the Agreement.
22. The Supplier shall each be solely responsible for the payment of all taxes, rates, duties, levies, etc. charged or levied in connection with the business of the Supplier.
23. The Supplier shall, at its own expense, procure full Workplace Safety and Insurance Board coverage for itself and all workers, employees, servants, agents and others engaged in or upon any work under this Agreement.

24. The Agreement does not create or provide the Supplier with any interest in the property of the City and that no person shall be entitled to register or claim an interest of any kind against City property. The Supplier shall comply with the *Construction Lien Act* (Ontario), to the extent that it is applicable, and any other statutes from time to time applicable to the work and activities contemplated under this Agreement, and shall promptly pay all accounts relating thereto.
25. As security for the performance of its obligations, including its obligations to design, manufacture and install the Carts and the Warranty Work under this Agreement (the “Obligations”), the Supplier shall provide upon execution of the Agreement, an unconditional and irrevocable Letter of Credit in the amount of Fifteen Thousand Dollars (\$15,000.00). The Letter of Credit shall be automatically renewed on an annual basis at the start of each Agreement Year and shall be held by the City for the period of the Warranty applicable to the Carts and for one (1) year thereafter. The Supplier shall maintain said Letter of Credit in force for the period as required under this Agreement.
26. The City may draw on the Letter of Credit, after the expiry of the applicable notice period, in the event of a default by the Supplier in the performance of any one or all of its Obligations under the Agreement in order to recover any and all damages incurred by the City either directly or indirectly as a consequence of such default.
27. The Supplier shall maintain books of account and records of all transactions relating to the design, fabrication, installation, maintenance and repair of the Carts and the City or its auditor shall have the right, at all reasonable times, to review, copy or audit the Supplier’s books of account and records relating to the Agreement and the Carts.
28. The City shall have the right, upon notice to the Supplier, to terminate the Agreement for an uncured breach of the Agreement by the Supplier and shall also have the option, on one hundred and eighty (180) days notice, to terminate the Agreement for any reason prior to its expiry without any payment of compensation to the Supplier.
29. The Supplier shall not be permitted to assign the Agreement without first obtaining the prior written consent of the Council of the City.

The Agreement shall contain such other normal commercial terms (e.g. notice provisions, force majeure) as may be satisfactory to the Medical Officer of Health and the City Solicitor.