



COLLIER COUNTY'S PURCHASE ORDER TERMS AND CONDITIONS

1. Offer

This offer is subject to cancellation by the COUNTY without notice if not accepted by VENDOR within fourteen (14) days of issuance.

2. Acceptance and Confirmation

This Purchase Order (including all documents attached to or referenced herein) constitutes the entire Agreement between the parties, unless otherwise specifically noted by the COUNTY on the face of this Purchase Order. Each delivery of goods and/or services received by the COUNTY from VENDOR shall be deemed to be upon the terms and conditions contained in this Purchase Order.

No changes or additional terms may be added to the Purchase Order except by written instrument executed by the COUNTY. VENDOR is deemed to be on notice that the COUNTY objects to any additional or different terms and conditions contained in any acknowledgment, hyper-link, invoice, or other communication from VENDOR, notwithstanding the COUNTY'S acceptance or payment for any delivery of goods and/or services, or any similar act by VENDOR.

3. Inspection

All goods and/or services delivered hereunder shall be received subject to the COUNTY'S inspection and approval, and payment therefore shall not constitute acceptance. All payments are subject to adjustment for shortage or rejection. All defective or nonconforming goods will be

returned pursuant to VENDOR'S instructions at VENDOR'S expense.

To the extent that a purchase order requires a series of performances by VENDOR, the COUNTY prospectively reserves the right to cancel the entire remainder of the Purchase Order if goods and/or services provided early in the term of the Purchase Order are non-conforming or otherwise rejected by the COUNTY.

4. Shipping

a) All goods are FOB destination and must be suitably packed and prepared to secure the lowest transportation rates and to comply with all carrier regulations. The risk of loss of any goods sold hereunder shall transfer to the COUNTY at the time and place of delivery; provided that the risk of loss prior to actual receipt of the goods by the COUNTY nonetheless remains with VENDOR. The VENDOR shall be responsible for filing, processing, and collecting all damage claims with the shipping carrier and/or its insurance carrier.

b) No charges will be paid by the COUNTY for packing, crating, or cartage unless otherwise specifically stated in this Purchase Order. Unless otherwise provided in the Purchase Order, no invoices shall be issued, or payments made prior to delivery. Unless freight and other charges are itemized, any discount will be taken on the full amount of invoice.

c) All shipments of goods scheduled on the same day via the same route must be consolidated. Each shipping container must be consecutively numbered and marked to



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show this Purchase Order number. The container and Purchase Order numbers must be indicated on the bill of lading. Packing slips must show the Purchase Order number and must be included on each package of less than container load (LCL) shipments and/or with each carload of equipment. The COUNTY reserves the right to refuse or return any shipment or equipment at VENDOR'S expense that is not marked with Purchase Order numbers. VENDOR agrees to declare to the carrier the value of any shipment made under this Purchase Order and the full invoice value of such shipment.

5. Payment Terms

Payment will be made upon receipt of a proper invoice and in compliance with Chapter 218, Fla. Stats., otherwise known as the "Local Government Prompt Payment Act," and, pursuant to the Board of County Commissioners Procurement Ordinance, as amended. All invoices must contain the Purchase Order number and any other specific information as identified on the Purchase Order and be sent to:

**Collier County Board of County
Commissioners
Attn: Accounts Payable
3299 Tamiami Trail, East, Ste 700
Naples FL 34112-5749
OR email to:
bccapclerk@collierclerk.com**

Discounts for prompt payment will be computed from the date of receipt of goods or from the date of receipt of invoices, whichever is later.

6. Time is of the Essence

Time for delivery of goods or performance of services under this Purchase Order is of the essence. Failure of VENDOR to meet delivery schedules or deliver within a reasonable time, as interpreted by the COUNTY alone, shall entitle the COUNTY to seek all remedies available to it at law or in equity. VENDOR agrees to reimburse the COUNTY for any expenses incurred in enforcing its rights. VENDOR further agrees that the undiscovered delivery of nonconforming goods and/or services is not a waiver of the COUNTY'S right to insist upon further compliance with all specifications.

7. Changes

The COUNTY may, at any time and by written notice, make changes to drawings and specifications, shipping instructions, quantities, and delivery schedules within the general scope of this Purchase Order. Should any such change increase or decrease the cost of or the time required for performance of the Purchase Order, an equitable adjustment in the price and/or delivery schedule will be negotiated by the COUNTY and VENDOR. Notwithstanding the foregoing, VENDOR has an affirmative obligation to give notice if the changes will decrease costs. Any claims for adjustment by VENDOR must be made within thirty (30) days from the date the change is ordered or within such additional period of time as may be agreed upon by the parties.



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8. Warranties

VENDOR expressly warrants that the goods and/or services covered by this Purchase Order will conform to the specifications, drawings, samples, or other descriptions furnished or specified by the COUNTY, and will be of satisfactory material and quality production, free from defects and sufficient for the purpose intended. Goods shall be delivered free from any security interest or other lien, encumbrance, or claim of any third party. These warranties shall survive inspection, acceptance, passage of title and payment by the COUNTY.

9. Statutory Conformity

Goods and services provided pursuant to this Purchase Order, and their production and transportation shall conform to all applicable laws, including but not limited to the Occupational Health and Safety Act, the Federal Transportation Act and the Fair Labor Standards Act, as well as any law or regulation noted on the face of the Purchase Order.

10. Advertising

No VENDOR providing goods and services to the COUNTY shall advertise the fact that it has contracted with the COUNTY for goods and/or services, or appropriate or make use of the COUNTY'S name or other identifying marks or property without the prior written consent of the COUNTY'S Procurement Services Division.

11. Indemnification

To the maximum extent permitted by Florida law, the VENDOR shall defend, indemnify

and hold harmless Collier County, its officers and employees from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees and paralegals' fees, whether resulting from any claimed breach of this Agreement by VENDOR, any statutory or regulatory violations, or from personal injury, property damage, direct or consequential damages, or economic loss, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the VENDOR or anyone employed or utilized by the VENDOR in the performance of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise may be available to an indemnified party or person described in this paragraph.

This section does not pertain to any incident arising from the sole negligence of COLLIER COUNTY.

11.1 The duty to defend under this Section 11 is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of the VENDOR, COUNTY and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to VENDOR. VENDOR'S obligation to indemnify and defend under this Section 11 will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the COUNTY or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.



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12. Warranty of Non-Infringement

a) VENDOR represents and warrants that all goods sold, or services performed under this Purchase Order are a) in compliance with applicable laws; b) do not infringe any patent, trademark, copyright, or trade secret; and c) do not constitute unfair competition.

b) VENDOR shall indemnify and hold harmless the COUNTY from and against any and all claims, including claims of negligence, costs, and expenses, including but not limited to attorneys' fees, that arise from any claim, suit or proceeding alleging that the COUNTY'S use of the goods and/or services provided under this Purchase Order are inconsistent with VENDOR'S representations and warranties in Section 12 (a).

c) If any claim which arises from VENDOR'S breach of Section 12 (a) has occurred, or is likely to occur, VENDOR may, at the COUNTY'S option, procure for the COUNTY the right to continue using the goods or services, or replace or modify the goods or services so that they become non-infringing, (without any material degradation in performance, quality, functionality, or additional cost to the COUNTY).

13. Insurance Requirements

The VENDOR, at its sole expense, shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Purchase Order. Providing and maintaining adequate insurance coverage is a material obligation of the VENDOR. All insurance policies shall

be executed through insurers authorized or eligible to write policies in the State of Florida.

14. Compliance with Laws

In fulfilling the terms of this Purchase Order, VENDOR agrees that it will comply with all federal, state, and local laws, rules, codes, and ordinances that are applicable to the conduct of its business.

Further, VENDOR acknowledges and without exception or stipulation shall be fully responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 as located at 8 U.S.C. 1324, et seq. and regulations relating thereto, as either may be amended, as well as the public employment eligibility requirements set forth in Florida Statutes, § 448.095, as amended. The Vendor is required to register with and use the E-Verify system. The Vendor affirms it is not in violation of the provisions stated in Florida Statutes, § § 287.138, which would make it ineligible to transact business with a public agency, as well as Florida Statutes, § 287.128, which prohibits public bodies from contracting with entities owned by certain foreign countries of concern, Florida Statutes, §287.135, which prohibits agencies from contracting with companies for goods or services that are "Scrutinized Companies," as defined therein . Failure by the awarded firm(s) to comply with the laws referenced herein shall constitute a breach of the award agreement and the County shall have the discretion to unilaterally terminate said agreement, immediately. Any breach of this provision may be regarded by the COUNTY



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as a material and substantial breach of the contract arising from this Purchase Order.

15. Force Majeure

Neither the COUNTY nor VENDOR shall be responsible for any delay or failure in performance resulting from any cause beyond their control, including, but without limitation to, war, strikes, civil disturbances, and acts of nature. When VENDOR has knowledge of any actual or potential force majeure or other conditions which will delay or threatens to delay timely performance of this Purchase Order, VENDOR shall immediately give notice thereof, including all relevant information with respects to what steps VENDOR is taking to complete delivery of the goods and/or services to the COUNTY.

16. Assignment

VENDOR may not assign this Purchase Order, nor any money due or to become due without the prior written consent of the COUNTY. Any assignment made without such consent shall be deemed void.

17. Taxes

The County is exempt from paying any State and local sales taxes when payment is made directly by the COUNTY, for goods and services procured subject to this Purchase Order, and for use tax on real property, transient rental property rented, tangible personal purchased or rented, or services purchased (Florida Statutes, Chapter 212), and from federal excise tax.

18. Annual Appropriations

The COUNTY'S performance and obligation to pay under this Purchase Order shall be contingent upon an annual appropriation of funds.

19. Termination

This Purchase Order may be terminated at any time by the COUNTY for convenience, in whole or in part, upon 30 days prior written notice to the VENDOR. This Purchase Order may be terminated immediately by the COUNTY for breach by VENDOR of the terms and conditions of this Purchase Order, provided that COUNTY has provided VENDOR with notice of such breach and VENDOR has failed to cure within 10 days of receipt of such notice. Unless directed otherwise in the notice of termination, the Vendor shall incur no further obligations in connection with the Purchase Order upon receipt of a written notice to terminate.

20. General

a) This Purchase Order shall be governed by the laws of the State of Florida. The venue for any action brought to specifically enforce any of the terms and conditions of this Purchase Order shall be the Twentieth Judicial Circuit in and for Collier County, Florida, or where proper subject matter exists in the United States District Court for the Middle District of Florida.

b) Failure of the COUNTY to act immediately in response to a breach of this Purchase Order by VENDOR shall not constitute a waiver of breach. Waiver of the



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COUNTY on any default by VENDOR hereunder shall not be deemed a waiver of any subsequent default by VENDOR.

c) All notices under this Purchase Order shall be sent to the respective addresses on the face page by certified mail, return receipt requested, by overnight courier service, via e-mail, or by personal delivery, and will be deemed effective upon receipt. Postage, delivery, and other charges shall be paid by the sender. A party may change its address for notices by written notice complying with the requirements of this section.

d) The VENDOR agrees that if expressly agreed upon by the parties, reimbursement of any travel expenses that may be associated with this Purchase Order shall be in accordance with Florida Statute Chapter 112.061, Per Diem and Travel Expenses for Public Officers, employees, and authorized persons.

e) VENDORS are hereby notified of the provisions of §287.05701, Florida Statutes, as amended, that the County will not request documentation of or consider or give preference based on a Vendor's social, political, or ideological interests.

f) In the event of any conflict between or among the terms of any Contract Documents related to this Purchase Order, the terms of the Contract Documents shall take precedence over the terms of the Purchase Order. To the extent any terms and/or conditions of this Purchase Order duplicate or overlap the Terms and Conditions of the Contract Documents, the provisions of the Terms and/or Conditions

that are most favorable to the County and/or provide the greatest protection to the County shall govern.

g) Public Records:

IF THE CONTRACTOR (VENDOR) HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**Communications, Government & Public
Affairs Division
3299 Tamiami Trail East, Suite 102
Naples, FL 34112-5746
Telephone: (239) 252-8999
Email:
PublicRecordRequest@colliercountyfl.gov**

The CONTRACTOR/VENDOR must specifically comply with the Florida Public Records Law to:

1. Keep and maintain public records required by the public agency to perform the service.

2. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are



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not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR/VENDOR does not transfer the records to the public agency.

4. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the CONTRACTOR or keep and maintain public records required by the public agency to perform the service. If the CONTRACTOR transfers all public records to the public agency upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

h) Payments will be made for services furnished, delivered, and accepted, upon receipt and approval of invoices submitted on the date of services or within six (6) months after completion of contract. Any untimely submission of invoices beyond the specified deadline period is subject to non-payment under the legal doctrine of "laches" as untimely submitted. Time shall be deemed of the essence with respect to the timely submission of invoices under this agreement.

i) The Clerk of the Circuit Court and Comptroller of Collier County, Florida, is authorized to review past, present, and proposed County contracts, transactions, accounts, and records. The Clerk's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud.

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