

## PURCHASE ORDER TERMS AND CONDITIONS FOR GOODS

1. Acceptance. This purchase order for goods issued by the Western Riverside County Regional Wastewater Authority ("Authority") to the Vendor designated in the purchase order must be promptly accepted and acceptance is expressly limited to the terms of this order. Any additions or different terms in the Vendor's forms are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given. Vendor's shipment of goods in response to this order shall be considered acceptance by the Vendor.

2. Entire Agreement. Unless Vendor and Authority have entered into a separate written contract covering the purchase of the goods described herein, the entire contract between the parties consists of this order and the Vendor's acceptance as above stipulated, and said contract shall not be changed or added to except in writing signed by authorized representatives of each party.

3. Price. The price invoiced for the goods on this purchase order shall be no higher than the price stated on the front of this purchase order unless prior notification is received from Vendor prior to shipment and the change is accepted by Authority. If the Vendor's established price for any item upon the date of delivery shall be lower than the price shown on this purchase order, Authority shall have the benefit of such lower price. Vendor shall deliver to Authority all invoices within 30 days of shipping or service delivery.

4. Payment. Payments will be made net 30 days unless otherwise specified as per agreements regarding discount terms. The period of computation will commence on the date of receipt of a correctly completed invoice. Payment may be withheld, in whole or in part, due to deficiencies in Vendor's performance. Payment of an invoice by Authority shall be without prejudice to any and all claims Authority may have against Vendor in connection with such goods. Invoices are paid on a weekly basis and such practice may result in minor deviations from payment terms otherwise cited herein

5. Time of the Essence. Time is of the essence on this order. If delivery is not made in the quantity or quantities and at the time or times specified, Authority shall have the right, at its option, to cancel the entire order or that part of same not so delivered. If Authority accepts delayed delivery the time of payment shall be extended accordingly.

6. Delivery and Acceptance. Vendor expressly warrants that any article, material or work is free and clear of all liens and encumbrances whatsoever, and that Vendor has good and marketable title to same. Unless otherwise specified, all goods are to be shipped prepaid, F.O.B. destination. No charge will be allowed for packing, crating, freight, express or other carrier's charges, or cartage, unless specifically agreed to by Authority. Title to goods purchased hereunder shall pass to Authority at the designated F.O.B. point, subject to Authority's right to inspect and reject or revoke acceptance.

### 7. Warranty.

#### (a) Definitions. As used in this clause-

Acceptance means the act of an authorized representative of Authority by which Authority assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

Supplies means the end items furnished by the Vendor and related services required under this contract.

#### (b) Vendor's obligations.

(1) Notwithstanding inspection and acceptance by Authority of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Vendor warrants that for 1 year after delivery of the goods to Authority:

(i) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with all requirements of this contract; and

(ii) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this contract.

(2) When return, correction, or replacement is required, transportation charges and responsibility for the supplies while in transit shall be borne by the Vendor. However, the Vendor's liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in this contract and the Vendor's plant, and return.

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(4) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

#### (c) Remedies available to Authority.

(1) Authority shall give written notice to the Vendor of any breach of warranties in paragraph (b)(1) of this clause within 60 days after discovery of the defect.

(2) Within a reasonable time after the notice, Authority may either-

(i) Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract within the meaning of paragraph (b)(1) of this clause; or

(ii) Retain such supplies and reduce the contract price by an amount equitable under the circumstances.

(3)

(i) If the contract provides for inspection of supplies by sampling procedures, conformance of supplies or components subject to warranty action shall be determined by the applicable sampling procedures in the contract. Authority-

(A) May, for sampling purposes, group any supplies delivered under this contract;

(B) Shall require the size of the sample to be that required by sampling procedures specified in the contract for the quantity of supplies on which warranty action is proposed;

(C) May project warranty sampling results over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection; provided, that the supplies remaining are reasonably representative of the quantity on which warranty action is proposed; and

(D) Need not use the same lot size as on original inspection or reconstitute the original inspection lots.

(ii) Within a reasonable time after notice of any breach of the warranties specified in paragraph (b)(1) of this clause, Authority may exercise one or more of the following options:

(A) Require an equitable adjustment in the contract price for any group of supplies.

(B) Screen the supplies grouped for warranty action under this clause at the Vendor's expense and return all nonconforming supplies to the Vendor for correction or replacement.

(C) Require the Vendor to screen the supplies at locations designated by Authority within the contiguous United States and to correct or replace all nonconforming supplies.

(D) Return the supplies grouped for warranty action under this clause to the Vendor (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement.

(4)

(i) Authority may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies from another source and charge to the Vendor the cost occasioned to Authority thereby if the Vendor -

(A) Fails to make redelivery of the corrected or replaced supplies within the time established for their return; or

(B) Fails either to accept return of the nonconforming supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure such failure within a period of 10 days (or such longer period as Authority may authorize in writing) after receipt of notice from Authority specifying such failure.

(ii) Instead of correction or replacement by Authority, Authority may require an equitable adjustment of the contract price. In addition, if the Vendor fails to furnish timely disposition instructions, Authority may dispose of the nonconforming supplies for the Vendor's account in a reasonable manner. Authority is entitled to reimbursement from the Vendor, or from the proceeds of such disposal, for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for excess costs incurred or to be incurred.

(5) The rights and remedies of Authority provided in this clause are in addition to and do not limit any rights afforded to Authority by any other clause of this contract or any other warranty Authority may have in connection with the subject matter of this contract, including by way of illustration and not by limitation, any warranty furnished by a manufacturer or material supplier.

8. Rejection of Goods. Authority shall have the right, at its option, to reject or revoke acceptance of any goods which do not conform to these warranties or to the specifications. In case of such rejection or revocation of acceptance, transportation of the rejected goods, both to and from Authority, shall be at the expense of Vendor, said rejected goods are not to be replaced except upon specific instruction from Authority, and Authority shall have the right at its option to cancel the remainder, if any, of the order, by notice to Vendor at the time notice is given of rejection or revocation of acceptance. Vendor shall be liable to Authority for all damages proximately caused by breach of any of the foregoing warranties, including incidental damages but excluding special or consequential damages.

9. Returns. Authority reserves the right to return for full credit any excess over quantity called for in any order or orders. Vendor to bear the cost of transportation both ways.

10. Force Majeure. Vendor shall not be held responsible for failure or delay in shipping nor Authority for failure or delay in accepting goods described herein if such failure or delay is due to act of God, war, federal or state legislation or any regulations or orders, fire, accident, or other causes, either similar or dissimilar to the foregoing, beyond their control. In the event of any such excused interference with shipments, Authority shall have the option either to reduce the quantity provided for in the order accordingly or to exercise its right of cancellation as set forth in these terms and conditions.

11. Additional Fees. Unless otherwise required by law or provided herein, Vendor assumes exclusive liability for, and shall pay before delinquency, all sales, use, excise and other taxes, charges or contributions of any kind now or hereafter imposed on or with respect to, or measured by the article sold or material or work furnished hereunder on the wages, salaries or other remunerations paid to persons employed in connection with performance of this order.

12. No Waiver. No exercise by Authority of its rights hereunder shall constitute a waiver of any rights it may have for breach of contract. Authority's waiver of or failure to enforce its rights on account of Vendor's failure or delay in performing any obligation of Vendor hereunder, or on account of Vendor's breach of contract in any respect, shall not constitute a waiver of any subsequent failure, delay or breach.

13. Use and Protection of Authority Data. All data and information supplied to Vendor in connection with its performance of any services on behalf of Authority shall be referred to herein as "Authority Data". Authority shall retain ownership of all Authority Data and Authority Data shall not be used by Vendor other than as necessary for the performance of its services pursuant to this Agreement. At no time will Vendor aggregate or use Authority Data for any other purpose, whether or not identifying information has been redacted, without the prior written consent of Authority. At all times that Authority Data is being transferred by Vendor or is in the possession or control of Vendor, it shall keep such data encrypted and shall maintain security and intrusion prevention and detection protocols that are consistent with information technology best practices in place to prevent unauthorized access to Authority Data. Vendor will promptly notify Authority of any unauthorized access by a third party to Vendor's networks or devices that may have compromised Authority Data and will cooperate with Authority to comply with any legal requirements with respect to notification of same.

14. Access to Authority Networks. At all times when accessing Authority's networks directly or Authority's Data that is stored on behalf of Authority in the cloud with a service provider, Vendor will comply with the requirements of Authority or its service provider with respect to secure access, including any requirement that such access be handled through a VPN, secure entry point or other secure connection. Neither Vendor, its employees, nor contractors will introduce any malware (including but not limited to a virus, worm, ransomware, tracking software or any disabling device) into the network of Authority or its service providers.

15. Compliance with Law. Vendor shall comply with all applicable laws and regulations of the federal, state and local government. Authority shall assist Vendor, as requested, in obtaining and maintaining all permits required of Vendor by Federal, State and local regulatory agencies. Vendor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of his or her Work. Vendor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the Work is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Vendor agrees to fully comply with such Prevailing Wage Laws. Vendor shall defend, indemnify and hold Authority, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Any stop orders issued by the Department of Industrial Relations against Vendor or any subcontractor that affect Vendor's performance of services, including any delay, shall be Vendor's sole responsibility and Vendor shall indemnify Authority from liability arising out of the same. It shall be mandatory upon the Vendor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815), contractor registration (Labor Code Sections 1725.5 and 1771.1) and debarment of contractors and subcontractors (Labor Code Sections 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 and to be registered with the Department of Industrial Relations shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1771.4, 1725.5 and 1771.1.

16. Insurance. If Vendor is not providing any services, delivery or installation, and the goods are shipped via common carrier or third-party logistics, Authority may determine that insurance requirements are not applicable. Vendor shall take out and maintain:

- A. Commercial General Liability Insurance, of at least \$2,000,000 per occurrence/\$4,000,000 aggregate for bodily injury, personal injury and property damage, at least as broad as Insurance Services Office Commercial General Liability most recent Occurrence Form CG 00 01, naming Authority as an additional insured;
- B. Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, of at least \$1,000,000 per accident for bodily injury and property damage, at least as broad as most recent Insurance Services Office Form Number CA 00 01 covering automobile liability, Code 1 (any auto);
- C. Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage of at least \$1,000,000 per occurrence. Insurance carriers shall be authorized by the Department of Insurance, State of California, to do business in California and maintain an agent for process within the state. Such insurance carrier shall have not less than an "A-: VII" rating according to the latest Best Key Rating unless otherwise approved by Authority.

15. Indemnification. The Vendor shall indemnify and hold harmless Authority, its Board, members of the Board, agents and employees of Authority from and against any and all claims, liabilities, expenses or damages, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, or patent infringement or fees for use of patented items, or any claim of the Vendor or sub-contractors for wages or benefits which arise in connection with the sale, delivery and/or installation of goods, except to the extent caused or resulting from the negligence or willful misconduct of Authority. The foregoing indemnity includes, but is not limited to, the cost of prosecuting or defending such action with legal counsel acceptable to Authority and Authority's attorneys' fees incurred in such an action.

17. Substitutions, Changes and Cancellation. No substitutions are acceptable unless expressly accepted in writing by Authority. Authority may make changes in the general scope of this order by giving written notice to Vendor. If any such change affects the cost of or time to deliver or perform under this order, an adjustment in price, delivery or both will be made as Authority determines to be equitable. Vendor may request changes; however no such change shall be effective unless accepted in writing by Authority. Authority may cancel this order in whole or in part at any time before acceptance of the goods due to Vendor's breach or for Authority's convenience.

18. Laws, Venue, and Attorneys' Fees. This purchase order shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this purchase order, the action shall be brought in a state or federal court situated in the County of Riverside, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, as determined by the court.

19. Contract Terms. Nothing herein shall be construed to give any rights or benefits to anyone other than Authority and the Vendor. The unenforceability, invalidity or illegality of any provision(s) of this purchase order shall not render the other provisions unenforceable, invalid or illegal. Notice may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to the parties to the addresses set forth in the purchase order. Vendor shall not assign, sublet, or transfer this purchase order or any rights under or interest in this purchase order without the written consent of Authority, which may be withheld for any reason. Vendor is retained as an independent contractor and is not an employee of Authority. No employee or agent of Vendor shall become an employee of Authority. This is an integrated agreement/purchase order representing the entire understanding of the parties as to those matters contained herein, and supersedes and cancels any prior oral or written understanding or representations with respect to matters covered hereunder. This Contract may not be modified or altered except in writing signed by both parties hereto.

20. Damage to Authority Facilities. Damage to Authority or public facilities or private property caused by the Vendor or by its subcontractors during delivery or installation shall be repaired and/or replaced in kind at no cost to Authority.

21. Site Safety and Cleanup. The delivery and installation site shall be kept clean and free of hazards at all times during delivery and installation. After installation is completed at the site, as applicable, Vendor shall clean the surrounding area to the condition prior to delivery and installation.

22. Installation. If the Vendor is responsible for providing installation services, finished installation work and/or equipment shall be subject to final inspection and acceptance or rejection by Authority.