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Procurement Department

PURCHASE ORDER TERMS & CONDITIONS

1. **Point of Destination** - All materials shipped to the Prince William County Service Authority (known hereafter as the “Authority”) must be shipped FOB destination unless otherwise specified with transportation charges prepaid and added to the invoice. The Service Authority will not accept collect shipments.
2. **Packing Slips or Delivery Tickets** - All shipments shall be accompanied by packing slips or delivery tickets and shall contain the following information for each item delivered.
 - a. Purchase Order Number
 - b. Name of the Articles and Stock Number (the Suppliers)
 - c. Quantity ordered
 - d. Quantity shipped
 - e. Quantity Back Ordered
 - f. Name of the Contractor
3. **Inspection and Acceptance** – Equipment, materials, and/or supplies delivered on this order shall be subject to inspection upon receipt and if rejected shall remain the property of the vendor.
4. **New/Used/Altered**-All supplies and equipment furnished must be new and in first class condition unless the solicitation and contract award specified used items. Demonstration, previously rented or reconditioned items are not considered new. No equipment is acceptable if serial numbers or any other manufacturers’ identifying labels or marks have been removed, obliterated, or changed.
5. **Substitutions**-Substitution is defined as the delivery of an item that does not conform to the specification of the purchase order or contract. Substitutions on purchase orders require the prior approval of the Purchasing office issuing the award. Any item delivered not meeting specifications may be returned to the Contractor at the Contractor’s expense. When an item is returned, the Contractor must make an immediate replacement with acceptable merchandise or be considered in default.
6. **Payment** – Payment shall be made after satisfactory delivery and acceptance of supplies and/or services and upon receipt of the properly completed invoice.

***** All invoices must reference the purchase order number. ****

- 7. Warranties** - The Contractor warrants that (1) the supplies to be provided to the Authority pursuant to this agreement are fit and sufficient for the purpose intended; (2) supplies are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship, and (3) that supplies sold to the Authority conform to the standards required by this purchase order. Unless otherwise stated, the manufacturer's standard warranty applies.
- 8. Time of Essence** – Time shall be of the essence to this Purchase order, except where it is herein specifically provided by the Authority. In case of default, or failure to deliver the supplies or services ordered by the time specified, the Service Authority after due notice (oral or in writing), may procure them from other sources and hold Vendor responsible for any excess occasioned thereby.
- 9. Termination For Convenience of the Authority** – The parties agree that the Authority may terminate this purchase order or any work or delivery required hereunder from time to time in whole or in part, whenever the General Manager of the Authority or his designee shall determine that such termination is in the best interest of the Authority. Termination, in whole or in part shall be affected by the delivery of a Notice of Termination signed by the General Manager or his designee, mailed or delivered to the Contractor, and specifically setting forth the effective date of termination. An equitable adjustment in the price shall be made for completed services, but no amount shall be allowed for anticipated profit or unperformed services.
- 10. Termination for Default** – Either party may terminate this purchase order, without further obligation, for the default of the other party or its agents or employees with respect to any agreement or provision contained herein.
- 11. Termination for Non-Appropriation of Funds** – If funds are not appropriated for any succeeding fiscal year subsequent to the one in which this purchase order is entered into, then the Authority may terminate this purchase order upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this section, the Authority shall be liable only for payments due through the date of termination.
- 12. Taxes**-The Service Authority is exempt from State Sales tax. A Commonwealth of Virginia Sales and Use Tax Certificate of Exemption will be provided upon request.
- 13. Licenses and Certificates**-The Service Authority reserves the right to require documentation that the selected Contractor is abiding by the ordinances, regulations, and laws of their community and the Commonwealth of Virginia. If the Contractor is required by any regulatory agency to maintain a professional license or certification to provide any product and/or service solicited under this agreement, the Service Authority reserves the right to require documentation of the current license and/or certification at any time during the term of the contract and any extension, will deem you to be in breach of contract and the Service Authority will take all appropriate actions.
- 14. Codes and Regulations**-Since the Service Authority is relying upon the selected Contractor's expertise in providing the required service it is the selected Contractor's responsibility to ensure that each product and/or service provided within the scope of this contract shall comply with all applicable prevailing codes and regulations.

15. Safety-All services, practices, and items furnished under the term of this contract shall comply with the Federal Occupational Safety and Health Act of 1790, as amended, as well as any pertinent Federal, Commonwealth of Virginia, and/or local safety or environmental codes. A lack of knowledge of these requirements will not relieve the Contractor of its responsibilities. Failure to comply with this requirement shall be considered a breach of contract.

16. Disputes and Claims

- a. If the Contractor wishes to make a contractual claim, whether for extra compensation, damages, or any other relief, he shall give PWCSA Notice in strict accordance with the contract documents. The Contractor's failure to comply strictly with the requirements of the contract shall result in a waiver of the claim. In any event, all contractual claims shall be submitted in writing no later than sixty (60) days after final payment.
- b. Resolution of any outstanding claims, counterclaims, disputes, and other matters in question arising out of or relating to the Contract Documents to the extent not resolved by the parties hereto, shall be resolved exclusively by litigation in either the Circuit Court of Prince William County, Virginia or the United States District Court for the Eastern District of Virginia, Alexandria Division. These two courts shall have exclusive and binding jurisdiction and venue over any and all disputes arising under this Agreement. The parties voluntarily waive any and all rights to a trial by jury. The fact finder shall be the court, sitting without a jury; provided, however, that nothing contained herein shall be construed to invalidate the finality of the Service Authority's decisions.
- c. No Claims Against Individuals: No claim whatsoever shall be made by the Contractor against any officer, Member, Authorized Representative, or employee of the Service Authority or Owner for, or on account of, anything done or omitted to be done in connection with this Contract, and the Contractor shall be strictly liable for all costs, attorney's fees and expenses incurred by any individual or entity who is sued in violation of this section.
- d. Disputes: In order to: (i) clearly identify the existence of a dispute between the parties and (ii) promote the prompt, efficient, and fair resolution of each such dispute, the parties shall adhere strictly to the claims resolution procedure set forth below. Time is of the essence in meeting these requirements.
 - 1. Claims Resolution Procedures
 - i. In accordance with section 2.2-4363, VA Code Ann., this provision shall be followed for consideration and handling of all claims by the Contractors under this Contract. Section 2.2-4365, VA Code Ann., is not applicable to this Contract, and under no circumstances is this paragraph to be construed as an administrative appeals procedure governed by section 2.2-4365, VA Code Ann.
 - ii. Notice of the intent to submit a claim setting forth the basis for any claim shall be submitted in writing within ten (10) days after the occurrence of the event giving rise to the claim, or within ten (10) days of discovering the condition giving rise to the claim, whichever is later.
 - iii. In no event, shall any claim arising out of this Contract be filed after the submission of the request for final payment by the Contractor.
 - iv. Claims by the Contractor with respect to this Contract shall be submitted in writing in the first instance for consideration by the Contract Administrator.

- v. The decision of the Contract Administrator shall be rendered in writing within ten (10) days from the receipt of the claim from the Contractor.
- vi. If the is not satisfied with the decision or resolution of the Contract Administrator, the Contractor may file a formal dispute with regards to the claim with the Service Authority Purchasing Manager, which claim shall be received within ten (10) days of the date of the decision of the Contract Administrator.
- vii. The Purchasing Manager shall reduce his or her decision to writing and shall mail or otherwise furnish a copy of this decision to the Contractor within ten (10) days of the receipt of the claim from the Contractor.
- viii. If the Contractor is not satisfied with the decision or resolution of the Purchasing Manager, the Contractor may appeal the claim with the Service Authority Director of Management and Budget within ten (10) days of the Purchasing Manager's decision.
- ix. The Service Authority Director of Management and Budget's decision on the claim shall be rendered in writing within ten (10) days of receipt of the claim from the Contractor.
- x. If the Contractor is not satisfied with the decision or resolution of the Director of Management and Budget, the Contractor may appeal the claim to the Service Authority General Manager within thirty (30) days of the Director of Management and Budget's decision. The Contractor may submit the appeal to the Service Authority General Manager by mailing or otherwise furnishing the Director of Management and Budget a copy of the claim and a request for the Service Authority General Manager's determination.
- xi. The Service Authority General Manager's decision on the claim shall be rendered in writing to the Contractor within thirty (30) days of receipt of the appeal from the Contractor and shall be final and binding on behalf of the Service Authority unless the Contractor files a lawsuit against the Service Authority.
- xii. Should any decision-maker designated under this procedure fail to make a decision within the time period specified, then the claim is deemed to have been denied by the decision-maker. Pending a final determination of a claim, the Contractor shall proceed diligently with the performance of the Work under the Contract.
- xiii. In accordance with the provisions of section 2.2-4363, VA Code Ann., full compliance with this procedure set forth in the provision shall be a precondition to the filing of any lawsuit by the Contractor against the Board of Directors of the Service Authority arising out of this Contract.

17. Employment Discrimination for Purchase Orders over \$10,000.00 – During the execution of this purchase order the Contractor agrees to the following:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin except where religion, sex, or national origin is a bona fide occupational reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this nondiscrimination clause.

- b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- c. Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or purchase order over \$10,000.00 so that the provisions will be binding upon each subcontractor or vendor.

18. Drug-Free Workplace: During the performance of this contract, the Contractor agrees to (1) provide a drug-free workplace for the Contractor's employees; (2) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, and distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violation of the such prohibition, (3) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (4) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000.00 so that the provisions will be binding upon each subcontractor or vendor.

19. Insurance – The Contractor shall maintain insurance acceptable to the Authority in full force and in effect throughout the term of the purchase order.

Whenever work is to be performed on the Service Authority-owned or leased property or facilities, the Contractor shall be required to have Workers' Compensation, Employer's Liability, Commercial General Liability, and Automobile Liability, and in certain types of programs Professional Liability/Errors and Omissions insurance coverage. The Service Authority must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage. In some cases, Workers' Compensation Insurance and Employer's Liability Insurance may not be required. Workers' Compensation insurance is required when the Contractor has three (3) or more employees. If work is performed by a sole proprietor, the person does not need Workers' Compensation insurance, as they do not have employees. Employer's Liability is required if an employer has employees who are paid a wage or salary. Employer's Liability is not required for persons in business together, e.g., husband and wife, siblings, or parents and children, as these persons would be considered owners, not employees.

20. Indemnification – The Contractor hereby agrees to indemnify and hold harmless the Authority, its' officers, agents and all employees and volunteers, from any and all claims for bodily injuries to the public, including the cost of investigation, all expenses of litigation, including reasonable attorneys fees and the cost of appeals arising out of any such claims or suits because of any and all acts of omission or commission or any person by the Contractor, including his agents, servants, employees, volunteers or through the mere existence of the project under contract. It is understood and agreed that the Contractor is at all times herein acting as an independent Contractor.

- 21. By accepting this purchase order, you are hereby accepting all terms and conditions stated.**

- 22. This purchase order is issued in accordance with the Prince William County Service Authority Procurement and Contract Management Regulations. Any questions regarding this purchase should be directed to the Authority's Procurement Manager at (703) 335-8925.**