Ada County Purchasing

Standard Terms & Conditions

1. DEFINITIONS: The following terms shall have the meaning stated herein: "Order" shall mean this Purchase Order including all attached and reference documents; "County" shall mean Ada County, a political subdivision of the State of Idaho; "Seller" shall mean the supplier named on the front of this Order, including its agents, sales personnel, shipping and receiving personnel, and other employees acting on its behalf.

2. TERMINATION: The County may terminate the Order (and/or any order issued pursuant to the Order) when the Seller has been provided written notice of default or non-compliance and has failed to cure the default or non-compliance, the Seller will be responsible for any direct costs and/or damages incurred by the County for placement of goods or services. The County, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.

3. CHANGES/MODIFICATIONS: Changes or modification of this Order can be effected only upon written consent of the County, but not until any proposed change or modification has been submitted in writing, signed by the party proposing the said change.

4. CONFORMING GOODS OR SERVICES: The goods or services shall minimally conform in all respects with the County's solicitation documents. In the event of nonconformity, and without limitation upon any other remedy, the County shall have no financial obligation in regard to the non-conforming goods or services.

5. OFFICIAL, AGENT AND EMPLOYEES OF THE COUNTY NOT PERSONALLY LIABLE: In no event shall any official, officer, employee or agent of the County be in any way personally liable or responsible for any covenant or order herein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Order. This section shall not apply to any remedies in law or at equity against any person or entity that exist by reason or fraud, misrepresentation or outside the terms of this Order.

6. TAXES: Ada County is generally exempt from payment of Idaho state sales and use taxes.

7. SAVE HARMLESS: Seller shall indemnify and hold harmless the County from any and all liability, claims, damages, costs, expenses, and actions, including reasonable attorney fees, caused by or that arise from the negligent or wrongful acts or omissions of the Seller, its employees, agents, or subsellers under this Order that cause death or injury or damage to property or arising out of a failure to comply with any state or federal statute, law, regulation or act. In no event will Seller be liable for incidental, indirect, special or consequential damages. Seller shall have no indemnification liability under this section for death, injury, or damage arising out of the negligence or misconduct of the County.

8. SELLER RESPONSIBILITY: The Seller shall be required to assume responsibility for production and delivery of all material and services included in this Order, whether or not the Seller is the manufacturer or producer of such material or services. Further, the Seller will be the sole point of contact or contractual matters, including payment of charges resulting from the use or purchase of items selected.

9. COMMODITY STATUS: It is understood and agreed that any item offered or shipped shall be new and in first class condition, and that all containers shall be new and suitable for storage or shipment, unless otherwise indicated by the County in the specifications. Demonstrators, previously rented, refurbished, or reconditioned items are not considered "new" except as specifically provided in this section. The warranty shall include replacement, repair, and any labor for the period of time required by other specifications or for the standard manufacturer or vendor warranty, whichever is longer.

10. SHIPPING, DELIVERY, AND INSTALLATION: All orders will be shipped directly to the ordering departments at the location specified, on an F.O.B. Destination freight prepaid basis with all transportation, unloading, uncrating, drayage, or other associated delivery and handling charges paid by the Seller, if installation is required, pricing shall include all charges associated with a complete installation at the location specified.

11. RISK OF LOSS: Risk of loss and responsibility and liability for loss or damage will remain with Seller until final inspection and acceptance when responsibility will pass to the County except as to the latent defects, fraud and Seller's warranty obligations. Such loss, injury or destruction shall not release the Seller from any obligation under this Order.

12. ASSIGNMENTS: No contract or order or any interest therein shall be transferred by the Seller to whom such Order is given to any other party without prior written approval. Transfer of a contract without approval shall, at the option of the County, cause the annulment of the contract so transferred. All rights of action, however, for any breach of such contract by the contracting parties are reserved to the County.

13. GOVERNMENT REGULATIONS: Seller guarantees that all items meet or exceed those requirements and guidelines established by the Occupational Safety and Health Act, Consumer Product Safety Council, Environmental Protection agency, or other regulatory agencies.

14. SAFETY INFORMATION: All chemicals, equipment and materials proposed and/or used in the performance of this Order must conform to the standards required by the William-Steiger Occupational Safety and Health Act of 1970. Seller must furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

15. PATENTS AND COPYRIGHT INDEMNITY: Contractor shall indemnify and hold the County harmless and shall defend at its own expense any action brought against the County based upon a claim of infringement of a United States patent, copyright, trade secret, or trademark for items purchased under this order.

16. USE OF THE COUNTY NAME: Seller agrees that it will not, prior to, in the course of, or after performance under this Order use the County's name in any advertising or promotional media as a customer or client of Seller without the priority written consent of the County.

17. PAYMENT TERMS: Ada County will normally pay properly submitted vendor invoices within thirty (30) days of receipt providing goods and/or services have been delivered, installed (if required), and accepted as specified.

18. FORCE MAJEURE: Neither party shall be liable or deemed to be in default for any Force Majeure delay in shipment or performance occasioned by unforeseeable causes beyond the control and without the fault or negligence of the parties, including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, unusually severe weather, provided that in all cases the Seller shall notify the County promptly in writing of any cause for delay and the County concurs that the delay was beyond the control and without the fault or negligence of the Seller.

19. APPROPRIATION BY COUNTY REQUIRED: It is understood and agreed that the County is a government entity and this Agreement shall in no way or manner be construed so as to bind or obligate the County beyond the term of any particular appropriation of funds by the County. The County reserves the right to terminate this Agreement in whole or in part (or any order placed under it) if, in its judgment, the County has insufficient funds to continue such payments. All affected future rights and liabilities of the parties hereto shall thereupon cease within ten (10) calendar days after notice to the Seller.

20. GOVERNING LAW AND SEVERABILITY: This Order shall be construed in accordance with, and governed by the laws of the State of Idaho. Any action to enforce the provisions of this Order shall be brought in Fourth District Court in Ada County, Idaho. In the event any term of this Order is held to be invalid or unenforceable by a court, the remaining terms of this Order will remain in force.

21. ENTIRE ORDER: This Order shall constitute the entire order between the parties with respect to the subject matter hereof and shall supersede all previous bids, proposals, or quotations, both oral and written, discussions, representations, commitments, and all other communications between the parties. Where terms and conditions specified in the County's documents or the Seller's response differ from those specifically stated in this Order, the terms and conditions of this Order shall apply. This Order may not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties. The terms of the Order shall prevail notwithstanding any variances with the terms and conditions of any other order submitted by the County.