

**COUNTY OF SONOMA  
STANDARD TERMS AND CONDITIONS  
FOR  
PURCHASE ORDERS AND BLANKET PURCHASE ORDERS**

1. Payment Terms.

1.1 Price. No changes in price, quantity or merchandise will be recognized by the County without written notice of acceptance thereof by the Purchasing Agent prior to the shipment of goods or installation of the materials or performance of services. No charge will be allowed for packing, boxing, or cartage, except when otherwise specified in this contract. The County is exempt from the payment of federal excise tax. Therefore federal excise tax shall not be included in the price of the goods. Unless otherwise definitely specified, vendor hereby understands and acknowledges that the prices quoted herein do not include California Sales and Use Tax or Sonoma County Sales and Use Tax.

1.2 Cash Discounts. In connection with any cash discount specified in this contract, time will be computed from the date of completed delivery of the goods or the completion of the performance of services as specified, or from the date that correct invoices are received if the latter date is later than the date of delivery and/or performance. For the purpose of earning the discount, payment shall be deemed to have been made on the date of mailing of the County warrant or check.

1.3 Invoices. Upon submission of itemized invoices in duplicate, payment shall be made of the prices stipulated herein for goods or materials delivered or services rendered and accepted less deductions, if any, as herein provided. Payment on partial deliveries or services may be made whenever amounts due so warrant or when requested by the Vendor and approved by the Purchasing Agent.

2. Requirements Concerning Goods.

2.1 Shipment.

2.1.1 Delivery. Vendor shall deliver the goods in accordance with the delivery schedule set forth in this contract. If the time for delivery is stated as a number of days, it shall mean calendar days. Goods will not be accepted if shipped C.O.D. Title to the goods purchased hereunder shall pass to the County at the F.O.B. point designated on the face hereof, subject to the County's right to reject the goods.

2.1.2 Inspection. The County shall have the right to inspect the goods prior to payment and acceptance. Notwithstanding anything stated to the contrary herein, if on inspection, the County determines that the goods do not conform to the contract requirements, the County shall have the right to preserve and keep, at no expense to the County, a small sample of the goods tendered for the purpose of having evidence of the tendered goods' kind and quality.

2.1.3 Risk of Loss. The risk of loss of the goods shall not pass to County until County actually receives and accepts the goods from Vendor.

2.2 Force Majeure. Vendor shall not be liable for any delay or failure to deliver any or all of the goods if that delay or failure is caused by labor disputes, strikes, war, riots, insurrection, civil commotion, fire, flood, accident, storm or any act of God. The County shall not be liable for failure to take delivery of the goods attributable to any of the causes specified in this paragraph if they render it commercially impractical for the County to receive the goods. When either Vendor or the County claims an excuse for nonperformance under this paragraph, they must give reasonable notice to the other party.

### 3. Performance of Services.

3.1 Standard of Care. Vendor shall perform all work hereunder in a manner consistent with the level of competency and standard of care normally observed by a person practicing in Vendor's trade or profession. Vendor hereby warrants that all its work will be performed in accordance with generally accepted and applicable professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Vendor's work by County shall not operate as a waiver or release.

3.2 Assigned Personnel. Vendor shall assign only competent personnel to perform work hereunder. In the event that at any time County, in its sole discretion, desires the removal of any person or persons assigned by Vendor to perform work hereunder, Vendor shall remove such person or persons immediately upon receiving written notice from County.

3.3 Completion. Vendor shall perform the services described in this contract within the time or dates set forth herein.

3.4 Insurance. With respect to performance of work under this contract, Vendor shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as follows: (a) Workers' compensation insurance with statutory limits as required by the Labor Code of the State of California; (b) Commercial general liability insurance covering bodily injury and property damage using an occurrence policy form, in an amount no less than One Million Dollars (\$1,000,000.00) combined single limit for each occurrence; and (c) Automobile liability insurance covering bodily injury and property damage in an amount no less than One Million Dollars (\$1,000,000) combined single limit for each occurrence including coverage for owned, hired, and non-owned vehicles. The above-described insurance shall be endorsed with the standard required language by the County. The following documentation shall be submitted to the County of Sonoma, Purchasing Department: (i) Properly executed Certificates of Insurance shall be submitted prior to the execution of this contract clearly evidencing all coverages, limits, and endorsements required above; (ii) Signed copies of the specified endorsements for each policy, shall be submitted within thirty (30) days of execution of this contract; and (iii) Upon County's written request, certified copies of insurance policies shall be submitted within thirty (30) days of County's request. Vendor's indemnity and other obligations shall not be limited by the foregoing insurance requirements. If Vendor, for any reason, fails to maintain insurance coverage which is required pursuant to this contract, the same shall be deemed a material breach of this contract. County, at its sole option, may terminate this contract and obtain damages from Vendor resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to Vendor, County may deduct from sums due to Vendor any premium costs advanced by County for such insurance. These remedies shall be in addition to any other remedies available to County.

### 3.5. Representations and Covenants of Vendor.

3.5.1 Status of Vendor. The parties intend that Vendor, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Vendor is not to be considered an agent or employee of County and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits County provides its employees. In the event County exercises its right to terminate this contract, Vendor expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

3.5.2 Taxes. Vendor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this contract and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes.

3.5.3 Records Maintenance. Vendor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this contract and shall make such documents and records available to County for inspection at any reasonable time. Vendor shall maintain such records for a period of three (3) years following completion of the work hereunder.

4. Termination. At any time and without cause, the County shall have the right, in its sole discretion, to terminate this contract by giving five (5) calendar days written notice to Vendor. In the event of such termination, Vendor shall only be entitled to payment for those goods that have been delivered and accepted by the County or services satisfactorily rendered through the date of termination.

5. Title to Goods; Infringement. Vendor warrants that it has title to the goods and that they are not subject to a security interest, lien, or other encumbrance. The Vendor shall hold the County, its officers, agents, servants and employees, harmless from liability of any nature or kind because of use of any copyrighted, or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used under this contract, and agrees to defend, at Vendor's sole expense, any and all actions brought against the County or the Vendor because of the unauthorized use of such articles.

6. Warranty.

6.1 Warranty For Goods. Vendor warrants to the County and/or County customers that any and all goods covered by this contract will be new unless otherwise specified and will conform to the drawings, specifications, samples, description and time provisions furnished by the County and will be of first-class material and workmanship and free from defect. In the event of a defect, malfunction, or failure of the goods to conform with this warranty, the County shall have the right to require the Vendor to repair or replace the goods without charge within five (5) business days from being notified of the defect. If the Vendor cannot replace the goods and repair either is not commercially practicable or cannot be made within such five (5) business day period, the County shall have the right to require the Vendor to refund the purchase price. Defective goods rejected by the County may, without prejudice to any other legal remedy (including, without limitation, incidental and consequential damages) be held at Vendor's risk and returned to Vendor at Vendor's expense. This warranty shall not be deemed to be waived by the County for any reason, including, without limitation, the County's acceptance of the goods or the County's failure to notify Vendor thereof. Further, the failure of the County to seasonably specify any defects in rejected goods shall not prevent the County

from relying on the defect to establish a breach, even though the Vendor could have cured the defect on proper notification.

6.2 Warranty for Services. Vendor warrants to County that any and all materials and equipment furnished under this contract will be new unless otherwise specified and that all services will be of good quality, free from faults and defects and in conformance with the contract. Neither final payment nor inspection of Vendor's services shall constitute an acceptance of services not done in accordance with this contract or relieve Vendor of liability in respect to any express warranties or responsibilities for faulty material or workmanship. Upon request of County, Vendor shall immediately remedy any defects in the services, materials and/or equipment and pay for any damage resulting therefrom. The County shall have the unqualified option to make any needed replacement or repairs itself or to have such replacements or repairs done by the Vendor. In the event the County elects to have said work performed by the Vendor, the Vendor agrees that the repairs shall be made and such materials as are necessary shall be furnished and installed within a reasonable time after the receipt of demand from the County; however, in no event shall such period exceed fifteen (15) calendar days. If the Vendor shall fail or refuse to comply with its obligations under this section, the County shall be entitled to all costs and expenses, including attorney's fees, reasonably incurred by reason of the said failure or refusal.

7. Indemnification. Vendor agrees to accept all responsibility for loss or damage to any person or entity, including but not limited to County, and to defend, indemnify, hold harmless, reimburse and release County, its officers, agents, and employees, from and against any and all actions, claims, damages, disabilities, liabilities and expense including, but not limited to attorneys' fees and the cost of litigation incurred in the defense of claims as to which this indemnity applies or incurred in an action by County to enforce the indemnity provisions herein, whether arising from personal injury, property damage or economic loss of any type, that may be asserted by any person or entity, including Vendor, arising out of or in connection with the performance of Vendor hereunder, whether or not there is concurrent negligence on the part of County, but, to the extent required by law, excluding liability due to the sole or active negligence or due to the willful misconduct of County. If there is a possible obligation to indemnify, Vendor's duty to defend exists regardless of whether it is ultimately determined that there is not a duty to indemnify. County shall have the right to select its own legal counsel at the expense of Vendor, subject to Vendor's approval, which approval shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Vendor or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

8. Remedies. In the event of a default hereunder by the Vendor, County may pursue any one or more of the following remedies:

8.1 County's Right to Cover. In the event any item furnished by the Vendor in the performance of this contract should fail to conform to the specifications therefore, or to the same submitted by the Vendor with its bid, the County may reject the same, and require the Vendor to reclaim and remove the same forthwith, without expense to the County, and immediately to replace all such rejected items with others conforming to such specifications or samples; providing that should the Vendor fail, neglect or refuse so to do the County shall thereupon have the right to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any moneys due or that may thereafter become due to the Vendor the difference between the prices named in the contract and the actual cost thereof to the County.

In the event the Vendor shall fail to make prompt delivery, as specified of any item, the same conditions as to the rights of the County to purchase in the open market and to reimbursement set forth above shall apply. Cost of inspection of deliveries which do not meet specifications will be for the account of the Vendor.

8.2. County's Right to Terminate this Contract. Every tender of goods must fully comply with all provisions of this contract and nothing in this contract shall be construed as restricting or limiting the County's right to demand exact performance with respect to each and every installment delivery. County shall have the right to treat any nonconforming installment shipment as a breach of the entire contract and terminate the contract for any such breach. If County pursues this remedy, Vendor shall not have the right to substitute a conforming tender, whether or not the nonconforming delivery may be seasonably cured.

8.3 County's Right to Incidental Damages. The County shall be entitled to recover as incidental damages, in addition to those provided for in the Uniform Commercial Code, the following: (a) a reasonable rental charge for goods leased while the County effectuates a purchase elsewhere; and (b) any expenses incurred in leasing substitute goods for use until the County procures goods elsewhere.

8.4 Remedies Not Exclusive: The rights and remedies of the County provided hereunder shall not be exclusive and are in addition to any other rights and remedies provided by the law or under this contract.

9. Nondiscrimination. Vendor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, or other prohibited basis. In addition, vendor agrees to comply with the provisions of Article II of Chapter 19 of the Sonoma County Code, prohibiting discrimination in housing, employment, and services because of AIDS or HIV infection during the term of this contract and any extensions of the term. All nondiscrimination rules or regulations required by law to be included in this contract are incorporated by this reference.

## 10. General Provisions.

10.1 Assignment. No right or interest in this contract may be assigned by Vendor without the written permission of the County, and no delegation of any obligation owed by Vendor may be made without the written permission of the County. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes.

10.2 No Waiver of Breach. The failure of the County to object to the manner of performance of any of the terms of this contract shall not be considered a waiver of any rights or remedies, past, present, or future. The failure of the County to object to a nonconforming performance shall not be construed as an acceptance of or acquiescence in the performance. The County reserves the right to insist upon strict compliance with this contract at all times.

10.3 Applicable Law and Forum. This contract shall be construed and interpreted according to the substantive law of California excluding the law of conflicts. Any action to enforce the terms of this contract or for the breach thereof shall be brought and tried in the County of Sonoma.

10.4 Merger; Modifications. The parties intend this writing to be the final expression of their agreement and it is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this contract. Acceptance or acquiescence in a course of performance rendered under this contract shall not be relevant to determine the meaning of this contract even when the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. No modification of this contract shall be effective unless and until such modification is evidenced by a writing signed by the Vendor and the Purchasing Agent. In the event of a conflict between these standard terms and conditions and any additional terms and conditions, the provisions of these standard terms and conditions shall prevail over an identified conflicting provision of these standard terms and conditions.

10.5 Construction. To the fullest extent allowed by law, the provisions of this contract shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

COUNTY OF SONOMA  
DEPARTMENT OF GENERAL SERVICES  
PURCHASING DIVISION