

PURCHASE TERMS AND CONDITIONS

1. **Point of Destination** - All goods shipped to the County must be shipped F.O.B. destination inside delivery, unless otherwise specified, with transportation charges prepaid.
2. **Time of Essence** - Time shall be of the essence to this Purchase Order, except where it is herein specifically provided to the contrary.
3. **Licenses/Permits Requirement** - All firms doing business in Prince William County are required to be licensed in accordance with section 11.1-5 (a) of the Prince William County Code. The Contractor shall comply with any Federal, state, and County laws, codes, requirements, ordinances, and regulations applicable to this purchase.
4. **Immigration Reform and Control Act of 1986** - The Contractor certifies that it does not and will not during the performance of this contract violate the provisions of the Federal Immigration Reform and Control Act of 1986 which prohibits employment of illegal aliens. The Contractor agrees that its employment of any person without legal status may subject it to termination of this contract for default and agrees to include a similar provision in any subcontract.
5. **Insurance** - The Contractor shall maintain insurance acceptable to the County in full force and in effect throughout the performance period of the Purchase Order. Proof of insurance shall be provided to the County upon request.
6. **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. Description of Goods and Services	c. Quantity Ordered
d. Quantity Shipped	e. Quantity Back Ordered	f. Name of Contractor

The County shall not accept responsibility for any goods delivered unless covered by a signed Purchase Order.
7. **Inspection and Acceptance** - Goods or services provided under this Purchase Order shall be subject to inspection upon receipt of goods and completion of services. In the event of rejection of goods or services, the Contractor shall immediately correct the deficiencies and resubmit the deliverables. Goods rejected shall remain the property of the Contractor.
8. **Warranties** - The Contractor warrants that (1) the goods and services provided to the County pursuant to this agreement are fit and sufficient for the purpose intended; (2) the goods are merchantable, of good quality, and free from defects, whether patent or latent, in material or workmanship; and (3) that goods and services provided to the County conform to the standards required by this Purchase Order. Unless otherwise stated, the manufacturer's standard warranty also applies.
9. **Payment/Billing** - The County will make payment to the Contractor, net 30 calendar days or in accordance with discount terms, if offered, after satisfactory delivery of goods or acceptance of services and after receipt of an acceptable invoice. All invoices must reference the Purchase Order number. Contractor's invoice shall be forwarded to the Agency shown in the "Invoice To" section on the Purchase Order.
10. Any refund that needs to be sent to the County should be mailed to the Accounts Payable/Disbursement Office at 1 County Complex Court, Prince William, VA 22192. Checks should be made payable to "Prince William County".
11. **Payments to Subcontractors** - In the event that the Contractor utilizes a subcontractor for any portion of the work under this Purchase Order, the Contractor hereby agrees to:
 - A. The Contractor shall take one of the two following actions within seven calendar days after receipt of amounts paid to the Contractor by the County for work performed by a subcontractor under the Purchase Order.
 - a. Pay a subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by that subcontractor under the Purchase Order; or
 - b. Notify the agency and any subcontractors, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
 - B. The Contractor shall be obligated to pay interest to a subcontractor on all monies owed by the Contractor that remain unpaid after seven calendar days following receipt by the Contractor of payment from the County for work performed by a subcontractor under the Purchase Order, except for amounts withheld under Subsection A. b. of this section. The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the provisions of this section shall not be construed to be an obligation by the County. A Purchase Order modification shall not be made for the purpose of providing reimbursement for any such interest charge. A cost reimbursement claim shall not include any amount for reimbursement for such interest charge.
 - C. Unless otherwise provided under the terms of this Purchase Order, interest shall accrue at the rate of one percent (1%) per month.
 - D. The Contractor is hereby required to include in each of its subcontracts a provision requiring each subcontractor to otherwise be subject to the same payment and interest requirements set forth in subsection 2. and 3. of this section with respect to each lower-tier subcontractor.
12. **Examination of Records** - Purchase Orders exceeding \$5,000, (a) the Contractor shall agree that the Director of Finance, or his duly authorized agent, shall, until the expiration of five years following the final payment on the Purchase Order, have access to and right to examine and copy any directly pertinent books, documents, papers and records of the Contractor involving transactions related to the Purchase Order in question; (b) the Contractor shall include a similar access, examination and copying requirement to that aforementioned, in any subcontract which is for more than \$10,000; and (c) in the event there is litigation or arbitration involving the Purchase Order, rights of access, examination, and copying there under shall continue until any litigation, appeals, claims, or arbitration shall have been finally disposed of.
13. **Termination for Convenience of the County** - The parties agree that the County may terminate this Purchase Order or any work or delivery required hereunder, from time to time either in whole or in part, whenever the County Executive of Prince William County or his designee shall determine that such termination is in the best interest of the County. Termination, in whole or in part, shall be effected by delivery of a Notice of Termination signed by the County Executive or his designee, mailed or delivered to the Contractor, and specifically setting for the effective date of termination. An equitable adjustment in the price shall be made for services completed and unreturnable goods delivered, but no amount shall be allowed for anticipated profit or unperformed services.
14. **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 provisions or conditions contained herein.
15. **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 County may terminate the Purchase Order upon thirty (30) days prior written notice to the Contractor. Should termination be accomplished in accordance with this section, the County shall be liable only for payments due through the date of termination.

16. Employment Discrimination for Purchase Orders over \$10,000.00

A. During the performance of this Purchase Order, the Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification 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.

B. The Contractor will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or Purchase Order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or Contractor.

17. Drug-free Workplace to be Maintained by Contractor for Purchase Orders over \$10,000.00. During the performance of this Purchase Order, the Contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, 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 violations of such prohibition; (iii) 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 (iv) 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 Contractor. For the purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Purchase Order awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the Purchase Order.

18. Claims/Disputes - In accordance with Section 2.2-4363, VA Code Ann., this provision shall be followed for consideration and handling of all claims by the Contractor under this Purchase Order. Section 2.2-4365, VA Code Ann., is not applicable to this Purchase Order, and under no circumstances is this paragraph to be construed as an administrative appeals procedure governed by Section 2.2-4365, VA Code Ann. Notice of the intent to submit a claim setting forth the bases 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. In no event shall any claim arising out of this Purchase Order be filed after the submission of the request for Final Payment by the Contractor. Claims by the Contractor with respect to this Purchase Order shall be submitted in writing in the first instance for consideration by the Contract Administrator. The decision of the Contract Administrator shall be rendered in writing within forty-five (45) days from the receipt of the claim from the Contractor. If the Contractor 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 Prince William County Director of Finance, which claim shall be received within thirty (30) days of the date of decision of the Contract Administrator. The Director of Finance shall reduce his or her decision to writing and shall mail or otherwise furnish a copy of this decision to the Contractor within forty-five (45) days of the receipt of the claim from the Contractor. The decision of the Director of Finance shall be final on behalf of Prince William County unless the Contractor submits the claim to the County Executive within thirty (30) days of the Director of Finance's decision. The Contractor may submit the claim to the County Executive by mailing or otherwise furnishing the Purchasing Manager a copy of the claim and a request for the County Executive's determination. The County Executive's decision on the claim shall be rendered in writing to the Contractor within forty-five (45) days of the Purchasing Manager's receipt of the request from the Contractor, and shall be final and binding on behalf of Prince William County, unless the Contractor submits the claim for determination by the Board of County Supervisors of Prince William County (the Board) within thirty (30) days of the County Executive's decision. Claims are submitted to the Board by mailing or otherwise furnishing the Purchasing Manager a copy of the claim, along with the request for determination by the Board. The Board shall consider the claim and render a decision within forty-five (45) days of the date on which the Board hears the claim in open meeting. The Board's procedure in considering claims under this Purchase Order shall be the same as that for other decisions of the Board on claims made under Section 15.2-1245, et seq., VA Code Ann. The decision of the Board shall be final. 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 Purchase Order. In accordance with the provisions of Section 2.2-4363, VA Code Ann., full compliance with the above procedure shall be a precondition to the filing of any lawsuit by the Contractor against the Board arising out of this Purchase Order.

19. Hold Harmless - The Contractor hereby agrees to indemnify, defend at its own expense, and hold harmless Prince William County, Virginia, its officers, agents and all employees and volunteers, from any and all claims for property damage, bodily injuries, and personal injuries to the public, including the cost of investigation, all reasonable attorney's fees, and the cost of appeals arising out of any such claims or suits, because of any and all acts of omission or commission of the Contractor, including its agents, subcontractors, employees, and volunteers, in connection with work under this Purchase Order. It is understood and agreed that the Contractor is at all times herein acting as an independent contractor.

20. Prince William County Government does not discriminate against faith-based organizations in procuring goods or services.

21. Governing Law and Choice of Forum - This Contract and any disputes hereunder shall be governed by the laws of the Commonwealth of Virginia. It is further agreed that all disputes and matters whatsoever arising under, in connection with or incident to this Contract, shall be litigated, if at all, in and before a state Court located in the County of Prince William in the Commonwealth of Virginia or a federal Court located in the Eastern District of Virginia, Alexandria Division, and any appropriate appellate Court thereof, to the exclusion of the courts of any other state, territory, country, or other jurisdiction.

22. This Purchase Order is issued in accordance with Prince William County Purchasing Regulations. Any questions regarding this purchase should be directed to the County Purchasing Manager (703) 792-6770.