

PURCHASE ORDERS - TERMS AND CONDITIONS

1. General

- a.) Acceptance of this order is expressly limited to the terms and conditions of this order, and shall not be modified or supplemented except in writing, signed by an authorized representative of City.
- b.) Reference in this order to Company's proposal or quotation are only to describe the goods or services covered hereby, and do not constitute an acceptance of any terms set forth therein.
- c.) Only the issuing of a signed Purchase Order from the City of Romulus shall constitute acceptance of this order.
- d.) Invoice price shall not exceed the price established on the face of this order. Pricing is inclusive of freight, packaging, insurance, handling and all other charges related to this order.

2. Performance

- a.) This order covers all goods and services to be performed by Company, and reference to one term or its legal effect, either goods or services, does not infer a limitation on the other term.
- b.) Time and quantity are of the essence for this order. Unless otherwise specified, delivery times specified are the times of delivery of the goods and/or services at City's designated place of delivery or destination.
- c.) City reserves the right to reject any goods or services and to cancel all or any part of this order, if Company fails to deliver all or any part of the goods or services, or perform any of the work in accordance with the terms and conditions of this order. Acceptance of any part of the order shall not bind the City to accept any future shipments or work nor deprive it of the right to return goods already accepted.

3. Indemnification - To the fullest extent permitted by law, the Company agrees to defend, pay on behalf of, indemnify, and hold harmless the City of Romulus, its consultants, agents, elected officials, appointed commissioners, volunteers and employees from and against any and all claims for losses demands, suits, or loss, including all costs connected therewith, for any damages which may be asserted, claimed or recovered against or from the City of Romulus, its consultants, agents, elected officials, appointed commissioners, volunteers and employees or others working on behalf of the City of Romulus, resulting by reason of liability or claim of liability that may occur during the performance of this contract.

4. Insurance – All insurance requirements applicable shall be fulfilled prior to the issuance of this Purchase Order. Vendor is responsible for keeping required insurance current until service is complete. Companies delivering to the City of Romulus or performing work for the City of Romulus on city owned property or on behalf of the City per the terms of this purchase order on private property shall maintain during the time period of their purchase order or contract the following minimum insurance coverages or as notified prior to issuance of a purchase order to company.

- a.) Commercial General Liability (CGL). Insurance Services Office Form GC 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this Contract or the general aggregate limit shall be twice the required occurrence limit.
- b.) Umbrella or Excess Liability. Policy in an amount not less than \$1,000,000. Umbrella or Excess policy wording shall be at least as broad as the primary or underlying policy(ies) and shall apply both to the Contractor's general liability and to its automobile liability insurance and shall be written on an occurrence basis. Lower amounts of umbrella or excess coverage may be allowed if higher CGL coverage is provided so the combination of the coverages is equal to \$2,000,000.
- c.) Automobile Liability. Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than \$1,000,000 per accident for bodily injury and property damage.
- d.) Workers' Compensation. Insurance as required by the State of Michigan, with statutory limits, and employer's liability insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.

Additional Insured Status. The city, its officers, officials, employees, volunteers, and others as may be specified in any "special conditions" shall be additional insureds on all policies with respect to liability arising out of work or operations performed by or on behalf of the contractor including materials, parts or equipment furnished in connection with such work or operations.

Primary Coverage. For all claims the contractor's insurance coverage shall be primary insurance as respect to the city, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the city, its officers, officials, employees or volunteers shall be excess of the contractor's insurance and shall not contribute with it.

Notice of Cancellation. Each insurance policy shall state that coverage shall not be canceled, except with thirty (30) days' written notice to the city.

Claims Made Policies. If any of the required policies provide coverage on a claims-made basis:

- a.) The Retroactive Date must be shown and must be before the date of the Agreement or the date the contractor starts to perform the services.
- b.) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement.
- c.) If coverage provided on a "claims made basis" is canceled or non-renewed, and not replaced with another claims made policy form with a retroactive date prior to the agreement's effective date, the contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of agreement work.

Verification of Coverage. Contractor shall furnish the city with original certificates of coverage and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. The city shall receive and approve all certificates and endorsements before the contractor begins providing services

5. Company Representations and Warranties

- a.) Company represents and warrants that goods and services furnished shall be of the highest grade and quality, of good workmanship and free from any defect, and shall conform to the specifications, quality requirements, drawings, samples or other data or descriptions furnished or adopted by City. Company hereby assigns to City all rights of Company to any representation or warranties of the subcontractors of Company or the manufacturer of the goods covered hereby.
- b.) Company shall be fully responsible for all work and service performed by any subcontractor. At City's option, any part of the material or work not complying with the requirements expressed or implied may be returned, at Company's risk and expense including transportation both ways, for prompt correction of defects or services conforming to this order. Additionally, Company shall be responsible for losses in City's revenue adversely affected by defective goods and services furnished by Company.
- c.) Company represents and warrants that the goods furnished are fully merchantable and fit for their intended or particular purpose and that such goods and the related services comply with the express and implied warranties contained for a Company under the Michigan Uniform Commercial Code (Act 174 of 1962, as amended). All goods and services are subject to final inspection by City and payment shall not constitute acceptance.
- d.) Company represents and warrants that no law, rule or ordinance of the federal, state or local governmental authority or agency has been violated in the manufacture or sale of the goods, or performance of the services covered by this order.
- e.) Company represents and warrants that (i) the goods provided hereunder are new and do not contain anything used or reconditioned, (ii) the goods and services provided hereunder do not infringe any patent, trademark, copyright, trade secret or intellectual property right of any third party, and (iii) Company shall notify City immediately upon discovery that nonconforming product has been shipped to City.
- f.) Company shall notify City in writing prior to implementation of any change in design or manufacturing process that may affect form, fit, function, quality, or reliability. Notification shall be made at least (60) sixty days prior to the effective date of change.
- g.) Company is responsible for securing all applicable licenses and permits and compliance therewith, and the price shall be deemed to include the cost of these items.

6. Governing Law and Dispute Resolution

- a.) This agreement shall be deemed made in the State of Michigan, and shall be construed and interpreted solely in accordance with the laws of such state. The parties hereby submit to the jurisdiction of the state and federal courts located in Wayne County, Michigan.
- b.) Company shall comply with all Federal, State and local laws applicable to the sale of goods or services to City. Company shall promptly provide any and all certifications of compliance requested by City.
- c.) In the event of a conflict between these Purchase Order Terms and Conditions and any other term contained in any document signed by the parties, these terms shall prevail and be binding.

7. Tax Exempt

- a.) The City of Romulus is exempt from federal and state sales, excise and use taxes. The Tax I.D. # is 38-6006334.

8. Non-Discrimination Clause - Company covenants not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position.