



MILWAUKEE COUNTY

TERMS AND CONDITIONS OF PURCHASE

CONDITIONS OF PURCHASE

All purchases made by Milwaukee County ("County") shall be in accordance with these terms and conditions ("Terms") and any attachments hereto. No other conditions or modifications of these Terms will be effective unless specifically agreed to in writing by a County Buyer or Contract Administrator. Any contract, purchase order, price agreement, invitation to bid, request for proposal, or other invitation or other document furnished to and intending to bind ("Contract") the vendor ("Vendor") pursuant to these Terms shall result in a binding agreement between the parties without further action by the Vendor or the County. Where agreements, requests for quotation, special provisions, requirements, specifications, plans or general conditions are attached hereto (collectively, "Attachments"), they shall be considered a part of the Contract as fully as if contained herein. Such Attachments shall govern should they conflict with the Terms.

DELIVERY; TIME IS OF THE ESSENCE

Unless otherwise set forth herein, all items shall be suitably packed and marked. If applicable, contract number must be on all shipping documents and containers. Time of delivery must be stated in definite terms and observed. If any anticipated delays arise, Vendor shall immediately notify County. The County Buyer or Contract Administrator may agree to extend the time for completion of delivery. Such extension shall not be deemed a waiver of the right of the County to terminate the Contract for any additional delay not covered by the Terms of such extension. If Vendor fails to meet the time of delivery specified or to promptly replace rejected material, the Vendor shall be liable for the difference between the "open market" and the Contract price. Untimely delivery may further be cause for termination for default. Deliveries shall be FOB destination freight prepaid and included unless otherwise specified. County will reject shipments sent COD or freight collect.

QUANTITIES

Items shipped in excess of the designated quantity will not be accepted and will be returned at Vendor's risk and expense.

INVOICES

Invoices shall be mailed to Milwaukee County Accounts Payable, Room 301, Milwaukee County Courthouse, Milwaukee, Wisconsin, 53233. Invoices shall state whether delivery is for a full or partial order and shall show units and unit prices. All invoices submitted must include contract, agreement or purchase order number related to purchase or payment obligation. Invoices not containing this information will be considered not to be "properly completed invoice" under Wisconsin State Statute SS 66.0135 (2)(a) but "improper invoices" under Wisconsin State Statute SS 66.0135 (7) for purposes of prompt payment. Improper invoices will be returned per Wisconsin State Statute SS 66.0135 (7).



PRICE AND PAYMENT TERMS

The prices herein do not include sales or use tax, as the County is exempt from all state, local and federal excise tax. No charges for transportation, containers, packing, unloading, etc. shall be allowed unless specified herein. Cash discount periods shall be computed either from the date of delivery and County's acceptance or the date of County's receipt of correct and proper invoices, prepared in accordance with the Terms, whichever date is later. Unless the order results from a fixed-price solicitation, the County reserves the right to negotiate price with the Vendor. Payment terms are net 30 calendar days from the date County receives a correct and proper invoice. In no event shall County be liable for any late charges.

QUALITY OF MATERIAL

All materials or items furnished and delivered shall be new and unused unless otherwise specified and of the quality specified. No obsolete, discontinued or defective materials or items may be used or furnished without the prior written approval of County.

WARRANTIES

If any of the items furnished by the Vendor fail to conform to the specifications herein or the sample submitted by the Vendor, the County may reject the same, and the Vendor shall reclaim and remove such items at its expense and replace such items with others conforming to such specifications or samples. If the Vendor fails, neglects or refuses to do so, the County shall have the right to purchase in the open market, in lieu thereof, a corresponding quantity of like items and may deduct from any moneys due or that may thereafter become due to Vendor the difference between the Contract price and the actual cost thereof to County. Vendor further represents and warrants that the items may be shipped, sold and used in a customary manner without violation of any law, ordinance, rule or regulation of any government or administrative body.

CANCELLATION

Unless otherwise specified herein, County may cancel all or part of any purchase without penalty and for any reason by giving written notice to Vendor at least 5 calendar days prior to scheduled delivery.

TERMINATION FOR CONVENIENCE

County may terminate its relationship with Vendor or any purchase hereunder at any time for any reason by giving the Vendor 30 calendar days' written notice of such termination. This provision also applies should the Milwaukee County Board of Supervisors fail to appropriate funds required for the completion of a multi-year contract.

TERMINATION FOR DEFAULT

In the event Vendor fails to perform hereunder and does not cure such failure within 5 calendar days of the date County first notified Vendor in writing, County may, at its sole discretion, terminate any order hereunder. Such termination shall be at no cost to County, and County may, at its sole discretion,



procure the items or services from other sources. Vendor shall be liable to County for any and all excess costs, determined by County, for any such items or services.

GOVERNING LAW AND VENUE

Any purchase made pursuant to these Terms shall be governed by and construed in accordance with the laws of the State of Wisconsin. The Vendor agrees and consents to the exclusive jurisdiction of the courts of the State of Wisconsin for all purposes regarding any such purchase, and further agrees and consents that venue of any action hereunder shall be exclusively in Milwaukee County, Wisconsin.

INDEMNIFICATION

Vendor shall indemnify, defend and hold harmless County, its agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever arising from or connected with Vendor's operations, goods and/or commodities or services provided hereunder. This indemnity shall include, but not be limited to, claims for or by reason of any actual or alleged infringement of any intellectual property or any actual or alleged trade secret disclosure.

COMPLIANCE WITH LAWS

Vendor shall fully comply with all applicable provisions of federal, state, and local laws, rules and regulations, and Vendor agrees to hold County, its agents, officers and employees harmless from any and all liability and costs, including, but not limited to attorney's fees, and damages resulting from failure of compliance.

NONEXCLUSIVITY

Nothing herein is intended to create nor shall it be construed as creating any exclusive arrangement with the Vendor.

MOST FAVORED CUSTOMER

Vendor represents and warrants that the prices Vendor charges County do not exceed existing selling prices to other customers for the same or substantially similar items or services for comparable quantities under similar terms and conditions.

AUDIT

Vendor, its officers, directors, agents, partners and employees shall allow the County Audit Services



Division and department Contract administrators (“Designated Personnel”) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Vendor related to the performance of the Contract for a period of up to 3 years following the date of last payment. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the subcontractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractor or other parties understand and will comply with the terms and responsibilities. Any bidder, proposer, subcontractor and their officers, directors, agents, partners and employees understand and will abide by all provisions of Chapter 34 of the Code of Ordinances. Vendor agrees to prominently post in locations accessible to its employees County-provided bulletins concerning the County Fraud Hotline. Any subcontractor or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Vendor. All subcontractor or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities.

NONDISCRIMINATION

In the performance of any order hereunder, Vendor shall not discriminate against any employee or applicant for employment because of race, sex, sexual orientation, gender identity and expression, age, ancestry or nationality, political or religious affiliation, creed, or disability, which shall include, but not be limited to, the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Vendor will post in conspicuous places, available for employees and applicants for employment, notices to be provided by the County setting forth the provisions of this nondiscriminatory clause. A violation of this provision shall be sufficient cause for the County to terminate any order hereunder without liability for the uncompleted portion or for any materials or services purchased or paid for by the Vendor for use in completing any order hereunder.

DISADVANTAGED BUSINESS ENTERPRISES

Vendor shall comply with all provisions pursuant to Milwaukee County Code of General Ordinances Chapter 42 when and where applicable. Vendor shall adhere to the approved DBE participation plan contained in its Contract. Approval must be obtained from the County prior to making any changes to the approved DBE participation plan.

CODE OF ETHICS

Vendor during the period of any Contract with the County shall not hire, retain or utilize for compensation any member, officer, or employee of County or any person who, to the knowledge of Vendor, has a conflict of interest. Vendor hereby attests that it is familiar with Milwaukee County’s Code of Ethics which states, in part, “No person may offer to give to any County officer or employee or his immediate family, and no County officer or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer’s or employee’s vote, official actions or judgment would be influenced thereby.”



INSURANCE

At a minimum, Vendor shall provide County with evidence of Commercial General Liability Insurance, \$1,000,000 Per Occurrence (including bodily injury and property damage) and \$1,000,000 General Aggregate (including Personal Injury, Fire Legal, Contractual and Products/Completed Operations) and Wisconsin Workers Compensation Insurance as required by statute or Proof of All States' Coverage. A waiver of subrogation for Workers Compensation by endorsement in favor of Milwaukee County shall be provided. Milwaukee County, as its interests may appear, shall be named as an additional insured for Commercial General Liability Insurance and be afforded a thirty (30) calendar day written notice of cancellation or non-renewal. Disclosure must be made of any non-standard or restrictive additional insured endorsement, and any use of non-standard or restrictive additional insured endorsement will not be acceptable. A certificate indicating the above coverages shall be submitted for review and approval by the County for the duration of the Contract.

EMPLOYEE'S RIGHT TO KNOW LAW

If there are any toxic substances, materials or infectious agents contained in a shipment, the Vendor shall supply two copies of material safety data sheets ("MSDS") in accordance with Wisconsin Statutes, Chapter 364. One MSDS shall be furnished with the material shipment, and one copy shall be sent to the County Procurement Division, Milwaukee County Department of Administrative Services, 633 West Wisconsin Ave., Suite 901, Milwaukee, WI 53202-1918. No material shall be accepted for delivery without the required MSDS.

PANDEMIC PREPAREDNESS

Vendor is responsible for compliance with all state, federal, and local orders, including Milwaukee County Administrative Orders, and all regulations and laws regarding the COVID-19 pandemic. Further, Vendor will follow all relevant agency guidance, specifically issued by the CDC, including, but not limited to, social distancing, hygiene, sanitation of work spaces, providing proper personal protective equipment to staff, proper staff screening methods and education of staff.

If determined applicable by the County, Vendor should have a written Pandemic Preparedness Plan that complies with all applicable laws, regulations, orders, and agency guidelines regarding COVID-19 and, at a minimum, meets the requirements in the Milwaukee County COVID-19 Response Preparedness Plan Checklist, attached to this Amendment as Exhibit 1.

ASSIGNMENT

Vendor shall not assign its rights or delegate its duties pursuant to any purchase by County or these Terms without County's prior written authorization and any assignment or delegation without such authorization shall be null and void and shall constitute a material breach of these Terms upon which County may terminate any order hereunder.

INVALIDITY, REMEDIES NOT EXCLUSIVE

The invalidity in whole or in part of any term or condition of these Terms shall not affect the validity of the remainder of these Terms and the application of such provisions to other persons or circumstances



shall not be affected thereby. The rights and remedies provided herein shall not be exclusive and are in addition to any other rights and remedies in law or equity.

Rev. 4/20