

CITY OF KENNEWICK (CITY) PURCHASE TERMS AND CONDITIONS

BY ACCEPTANCE OF THIS ORDER, THE VENDOR WARRANTS FULL COMPLIANCE WITH ALL APPLICABLE LOCAL, STATE OR FEDERAL LAWS AND REGULATIONS INCLUDING SPECIFIC STATUTORY REQUIREMENTS OF FEDERAL AGENCIES.

VENDOR AND CITY AGREE AS FOLLOWS:

1. **DELIVERY.** For any exception to the delivery date as specified on this order, Vendor shall give prior notification and obtain written approval thereto from the Purchasing Division or appropriate representative of the City with the respect to delivery under this order. Time is of the essence and the order is subject to termination and/or appropriate damages for failure to deliver as specified. Acceptance by the City of late performance with or without objection or reservation shall not waive the right to claim damage for such breach nor constitute a waiver of the requirements for the timely performance of any obligation remaining to be performed by vendor.
2. **PACKAGING.** No charge will be allowed for packaging, boxing, handling or transportation costs except as specified on this order.
3. **SHIPPING INSTRUCTIONS.** Unless otherwise specified, all goods are to be shipped prepaid F.O.B. Destination. Where shipping addresses indicate room numbers, the vendor shall make delivery to that location at no additional charge where specific authorization is granted to ship goods F.O.B. shipping point. Vendor agrees to prepay all shipping charges, route as instructed or if instructions are not provided, route by cheapest common carrier and to bill the City as a separate item on the invoice for said charges. Each invoice for shipping charges shall contain the original or a copy of the bill indicating that the payment for shipping has been made. City reserves the right to refuse COD shipments.
4. **RISK OF LOSS.** Regardless of F.O.B. point, Vendor agrees to bear all risks of loss, injury or destruction of goods and materials ordered herein which occur prior to delivery. Such loss, injury or destruction shall not release Vendor from any obligations hereunder.
5. **CHANGES.** No alteration in any of the terms, conditions, delivery price, quantity, quality, or specifications of this order will be affective without written consent of the City for its acceptance prior to shipment.
6. **HOLD HARMLESS.** Vendor shall protect, indemnify and hold the City, its officers, officials, employees and volunteers harmless from and against damage, cost or liability of any nature for any injuries to persons or property arising from acts or omissions of Vendor, his employees, agents, or subcontractors, except for injuries and damages caused by the sole negligence of the City.
7. **REJECTION.** All goods or materials purchased herein are subject to approval by the City. Any rejection of goods or material resulting because of nonconformity to the terms and specifications of this order whether held by the City or returned, will be at Vendor's risk and expense.
8. **ASSIGNMENTS.** The provisions or monies due under this contract shall only be assignable, in whole or in part, with the proper written approval of the Purchasing Division or approved representative of the City.
9. **PAYMENTS, CASH DISCOUNTS, LATE PAYMENT CHARGES.** Invoices will not be processed for payment nor will the period of computation for cash discount commence until receipt of a properly completed invoice or invoice items, whichever is later. If an adjustment in payment is necessary due to damage or dispute, the cash discount period shall commence on the date final approval for payment is authorized.
10. **WARRANTIES.** Vendor warrants that all products delivered under this purchase order shall be free from defect in material and workmanship, and shall be fit for the intended purpose. This warranty is in addition to any standard warranty or guarantee given by the vendor to the City. All products determined by the City to be defective shall be replaced within 15 days of notice by the City. All costs of replacement, including shipping charges shall be borne by the Vendor. Vendor warrants that the equipment, materials or service on this order do not infringe any patent, registered trademark or copyright and agrees to hold the City harmless in the event of any infringement or claim thereof. Vendor warrants that all goods and materials ordered herein are free and clear of all liens, claims and encumbrances.
11. **FORCE MAJEURE.** Neither party shall be held responsible for failure or delay in the fulfillment of conditions of this contract or purchase order if the cause is not within the control of the party whose performance is interfered with and which, by the exercise of reasonable diligence, said party is unable to prevent.
12. **GRATUITIES.** The City may, by written notice to the Vendor, cancel this contract if it is found by the City that Vendor or any agent or representative of Vendor, offered or gave gratuities, in the form of entertainment, gifts or otherwise, to any officer or employee of the City of Kennewick with a view toward securing a contract or securing favorable treatment with respect to the awarding of this contract, in violation of the City of Kennewick Code of Ethics.
13. **TAXES.** Unless otherwise indicated, the City agrees to pay to the vendor all State of Washington sales or use tax. Vendor shall comply with and be responsible for all federal, state, and local taxes and licensing requirements. When applicable, City agrees to furnish Vendor, upon acceptance of articles supplied under this order, with an exemption certificate.
14. **SDS.** Safety Data Sheets to be included with shipments of any material requiring this documentation, per OSHA and WSHA regulations.
15. **PUBLIC DISCLOSURE.** Purchase Order and all contents and attachments shall be deemed a public record as defined in RCW 42.56 "Public Records Act."
16. **TERMINATION.** In the event of a breach by Vendor of any of the provisions of this contract, the City reserves the right to cancel and terminate this contract forthwith upon giving an oral or written notice of the Vendor. Vendor shall be liable for damages suffered by the City resulting from Vendor's breach of contract.
17. **DEFAULT.** Vendor covenants and agrees that in the event suit is instituted by the City for any default on the part of the Vendor, and the Vendor is adjusted by a court of competent jurisdiction to be in default, he shall pay to the City all costs, expense expended or incurred by the City in connection therewith, and reasonable attorney's fees. The Vendor agrees that the Superior Court of the State of Washington shall have jurisdiction over any suit, and that venue shall be laid in Benton County.
18. **IDENTIFICATION.** All invoices, packing list, packages, shipping notices, and other written documents affecting this order shall contain the applicable purchase order number.
19. **BRANDS.** When a specific brand is named it shall be construed solely for the purpose of indicating the standard or quality, performance or use desired. City reserves the right to refuse brands substituted by vendor without prior approval of the City. No substitutions are allowed when noted on this purchase order.
20. **ACCEPTANCE.** BY ACCEPTING THIS PURCHASE ORDER IN WRITING OR BY DELIVERING THE MATERIALS ORDERED, YOU ACCEPT ALL OF THE TERMS AND CONDITIONS SET FORTH. FORMAL OBJECTION IS HEREBY MADE TO ANY ADDITIONAL OR DIFFERENT TERMS PROPOSED BY VENDOR AS A CONDITION OF ACCEPTANCE OR DELIVERY.

INSTRUCTIONS FOR USE OF PURCHASE ORDER

VENDOR:

Upon completion of the order, an invoice reflecting all costs relating to the order shall be submitted to the City of Kennewick Accounts Payable Division via email – ap@ci.kennewick.wa.us, or P.O. Box 6108, Kennewick, WA 99336. The completed purchase order will be paid according to the current schedule available from Accounts Payable.