

STANDARD TERMS & CONDITIONS

ALL PURCHASES ARE SUBJECT TO THE CITY OF FREDERICK PURCHASING POLICIES AND PROCEDURES. THE CITY OF FREDERICK WILL NOT BE RESPONSIBLE FOR ANY GOODS DELIVERED OR SERVICES RENDERED UNLESS COVERED BY AN OFFICIAL PURCHASE ORDER SIGNED BY THE PURCHASING MANAGER OR DESIGNEE. NO CHANGE, MODIFICATION, OR REVISION SHALL BE BINDING UPON THE CITY OF FREDERICK UNLESS MADE IN WRITING BY THE PURCHASING MANAGER OR DESIGNEE. CONTRACTOR SHALL NOT ASSIGN ITS OBLIGATION TO PERFORM HEREUNDER IN WHOLE OR IN PART WITHOUT THE PRIOR WRITTEN CONSENT OF THE PURCHASING MANAGER OR DESIGNEE.

INVOICING: INVOICES MUST BE SUBMITTED TO THE ACCOUNTS PAYABLE DEPARTMENT AT 111 AIRPORT DRIVE EAST, FREDERICK, MD 21701 OR VIA EMAIL TO INVOICES@CITYOFFREDERICK.COM.

INVOICES MUST SHOW THE CONTRACTOR'S FEDERAL TAX IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER, AS APPROPRIATE, AND PURCHASE ORDER NUMBER AND LINE NUMBER(S) THAT CORRESPOND WITH THE ORDER(S). CASH DISCOUNT PERIODS WILL BE COMPUTED EITHER FROM THE DATE OF DELIVERY AND ACCEPTANCE OF THE GOODS ORDERED, OR THE DATE OF RECEIPT OF CORRECT AND PROPER INVOICE PREPARED IN ACCORDANCE WITH THE TERMS OF THE CITY OF FREDERICK PURCHASE ORDER, WHICHEVER DATE IS LATER. UNDER NO CIRCUMSTANCES WILL INTEREST BE PAID.

INCORPORATED BY REFERENCE: IF THIS PURCHASE ORDER IS THE RESULT OF A WRITTEN SOLICITATION THE SOLICITATION, RESPONSE, AND ANY CONTRACT OR AGREEMENT ARE HEREBY INCORPORATED BY REFERENCE.

MAYOR AND BOARD APPROVAL: UNLESS AN EMERGENCY, PRIOR APPROVAL BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF FREDERICK IS REQUIRED ON ALL PURCHASES OF GOODS AND SERVICES IN EXCESS OF \$49,999.99.

FEE PROHIBITION: THE CONTRACTOR WARRANTS AND REPRESENTS THAT IT HAS NOT EMPLOYED OR ENGAGED ANY PERSON OR ENTITY TO SOLICIT OR SECURE THIS CONTRACT, AND THAT IT HAS NOT PAID, OR AGREED TO PAY, ANY PERSON OR ENTITY A FEE OR ANY OTHER CONSIDERATION CONTINGENT ON THE MAKING OF THIS CONTRACT. IF ANY SUIT, CLAIM, OR DEMAND SHALL ARISE CONCERNING SUCH A FEE, THE CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY OF FREDERICK FROM ALL SUCH CLAIMS, SUITS OR DEMANDS.

DISCRIMINATION PROHIBITED: IN THE EXECUTION OF THE OBLIGATION AND RESPONSIBILITIES HEREUNDER, INCLUDING BUT NOT LIMITED TO HIRING OR EMPLOYMENT MADE POSSIBLE BY OR IN RELATION TO THIS CONTRACT, THE CONTRACTOR SHALL NOT DISCRIMINATE AGAINST PERSONS ON THE BASIS OF RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, MARITAL STATUS, VETERAN STATUS, DISABILITY, SEXUAL ORIENTATION, GENDER IDENTITY, GENETIC INFORMATION, OR ANY OTHER LEGALLY PROTECTED GROUP IN EMPLOYMENT OR IN THE PROVISIONS OF SERVICES.

GOVERNING LAW: THIS CONTRACT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF MARYLAND. ACCEPTANCE OF THIS PURCHASE ORDER AND FULFILLMENT ARE PRIMA FACIE EVIDENCE THAT THE CONTRACTOR IS FAMILIAR WITH AND ACCEPTS THESE TERMS AND CONDITIONS AND ACKNOWLEDGES THAT THEY SUPERSEDE THE CONTRACTOR'S TERMS AND CONDITIONS. THESE TERMS AND CONDITIONS ARE SUBJECT TO CHANGE WITH OR WITHOUT NOTICE TO THE CONTRACTOR. IT IS THE CONTRACTOR'S RESPONSIBILITY TO REVIEW THE TERMS AND CONDITIONS WITH EACH ORDER.

FUNDING: THE FAILURE OF THE CITY OF FREDERICK TO APPROPRIATE SUFFICIENT FUNDS IN ANY FUTURE FISCAL YEAR TO PROVIDE FUNDS FOR THIS CONTRACT SHALL ENTITLE THE CITY OF FREDERICK TO TERMINATE THIS CONTRACT WITHOUT PRIOR NOTICE TO THE CONTRACTOR.

MATERIAL SAFETY DATA: IF THE WORK TO BE PERFORMED UNDER THIS CONTRACT REQUIRES THE USE OR DELIVERY OF ANY PRODUCT WHICH CONTAINS INGREDIENTS THAT COULD BE HAZARDOUS TO A PERSON'S HEALTH; A SAFETY DATA SHEET (SDS) MEETING CURRENT OSHA STANDARDS MUST BE PROVIDED.

TERMINATION FOR CONVENIENCE: IN THE EVENT OF TERMINATION, WITHOUT CAUSE, THE CONTRACTOR SHALL BE PAID FOR SERVICES RENDERED OR GOODS DELIVERED UP TO THE DATE OF TERMINATION SET

FORTH IN THE WRITTEN NOTICE OF TERMINATION. THE CONTRACTOR WILL NOT BE REIMBURSED FOR ANY CONSEQUENTIAL, INCIDENTAL, OR SPECIAL DAMAGES OR ANY ANTICIPATORY PROFITS THAT HAVE NOT BEEN EARNED UP TO THE DATE OF THE TERMINATION. PAYMENTS TO BE PROVIDED ON A LUMP SUM BASIS SHALL BE PRORATED BY THE CITY OF FREDERICK BASED ON THE SERVICES RENDERED OR THE GOODS DELIVERED UP TO THE DATE OF TERMINATION SET FORTH IN THE WRITTEN NOTICE.

TERMINATION FOR DEFAULT: THE CITY OF FREDERICK SHALL HAVE THE RIGHT TO, UPON THE HAPPENING OF ANY DEFAULT, WITHOUT PROVIDING NOTICE (IN ADDITION TO OTHER AVAILABLE RIGHTS AND REMEDIES): 1) TERMINATE THIS CONTRACT IMMEDIATELY, IN WHOLE OR IN PART 2) SUSPEND THE CONTRACT AND ENFORCE ALL RIGHTS AND REMEDIES AVAILABLE TO THE CITY OF FREDERICK, BY SUIT OR ANY OTHER APPROPRIATE MEASURE AVAILABLE, ANY COVENANT, TERM OR CONDITION SET FORTH IN THIS CONTRACT, OR FOR DAMAGES OR OTHER RELIEF, OR PROCEED TO TAKE ANY ACTION AUTHORIZED OR PERMITTED UNDER APPLICABLE LAW OR REGULATIONS. UPON TERMINATION OF THIS CONTRACT FOR DEFAULT, THE CITY OF FREDERICK MAY PAY THE CONTRACTOR FOR SERVICES RENDERED OR GOODS DELIVERED UP TO THE DATE OF TERMINATION SET FORTH IN THE NOTICE, LESS THE AMOUNT OF DAMAGES CAUSED BY THE DEFAULT, ALL AS DETERMINED BY THE CITY OF FREDERICK IN ITS SOLE DISCRETION. IF THE DAMAGES EXCEED THE UNDISBURSED SUMS AVAILABLE FOR COMPENSATION, THE CITY SHALL NOT BE OBLIGATED TO MAKE ANY FURTHER DISBURSEMENTS HEREUNDER.

INDEMNIFICATION: CONTRACTOR SHALL INDEMNIFY, PROTECT, DEFEND, AND HOLD HARMLESS THE CITY, THE CITY'S REPRESENTATIVES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, ELECTED AND APPOINTED OFFICERS, OFFICIALS, PARTNERS, EMPLOYEES, AND AGENTS ("CITY INDEMNITEES") FROM AND AGAINST ALL LIABILITY, CLAIMS, DEMANDS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY FEES AND COSTS OF DEFENSE), OF ANY NATURE, KIND, OR DESCRIPTION CLAIMED, ASSERTED, OR PROSECUTED BY ANY PERSON OR ENTITY WHOMSOEVER, TO THE EXTENT CAUSED BY: (I) THE NEGLIGENT, ACTS, ERRORS, OR OMISSIONS, BY CONTRACTOR, ITS AGENTS, PARTNERS, EMPLOYEES AND SUB-CONTRACTORS, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, OR (II) THE MATERIAL BREACH OF THIS CONTRACT, EXCEPT TO THE EXTENT THAT ANY CLAIMS OR DAMAGES ARE CAUSED BY THE NEGLIGENCE, WILLFUL MISCONDUCT OR MATERIAL BREACH OF THIS CONTRACT BY THE CITY INDEMNITEES. THIS INDEMNITY OBLIGATION SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS CONTRACT, BUT SHALL NOT OTHERWISE EXTEND ANY APPLICABLE STATUTE OF LIMITATIONS OR STATUTE OF REPOSE. THIS INDEMNITY OBLIGATION SHALL BE IN ADDITION TO, AND NOT IN LIEU OF, ANY AND ALL OTHER LIABILITY WHICH THE CONTRACTOR HAS OR MAY HAVE TO ANY PARTY INDEMNIFIED HEREUNDER OR TO THIRD PARTIES AS A MATTER OF LAW. CONTRACTOR'S OBLIGATIONS HEREUNDER SHALL NOT BE LIMITED BY ANY INSURANCE COVERAGE REQUIRED.

PROPERTY LOST, DAMAGED, OR DESTROYED: SHIPPING IS FOB DESTINATION. ANY DELIVERIES TO BE PROVIDED BY THE CONTRACTOR WILL REMAIN AT THE CONTRACTOR'S RISK UNTIL WRITTEN ACCEPTANCE BY THE CITY OF FREDERICK; AND THE CONTRACTOR WILL REPLACE, AT CONTRACTOR'S EXPENSE, ALL DELIVERABLES LOST, DAMAGED OR DESTROYED BY ANY CAUSE WHATSOEVER.