

CITY OF LONGMONT PURCHASE ORDER TERMS AND CONDITIONS

The following Terms and Conditions shall apply to every purchase of Goods and Services acquired via a properly authorized Purchase Order issued on or after 05/25/2016.

GENERAL TERMS AND CONDITIONS:

1. **Entire Agreement:** The Purchase Order constitutes the entire agreement between the City of Longmont ("City") and the Vendor. The terms and conditions set forth herein may not be superseded, altered, deleted or added to without the express written consent of the City. In case of conflict, the following order of precedence shall prevail: 1. Change Orders; 2. City Contract, if issued; 3. Expressly approved written exceptions as noted on the face of the Purchase Order; 4. City of Longmont Purchase Order Terms and Conditions; 5. Vendor Proposal.
Commencement of performance by Vendor constitutes agreement to these terms and conditions. The City shall have no responsibility or liability for products or services delivered or performed prior to proper execution thereof. Each shipment received by the City from Vendor shall be solely upon the terms contained in the Purchase Order and any signed contract between the parties.
2. **Insurance:** The Vendor shall obtain, at Vendor's own expense, all required insurance as specified below. Liability insurance must be of the occurrence form. Deviations from the requirements listed below must be submitted to and approved by the City's Risk Manager. At a minimum, the City, its officers, agents and employees shall be listed as "Additional Insureds" on General and Automobile Liability, and other insurance policies as required.
 - a. **COMMERCIAL GENERAL AND AUTOMOBILE LIABILITY** insurance must cover bodily injury, property damage and personal injury with limits of no less than \$1,000,000 per occurrence. Liability insurance must be of the occurrence form.
3. **Laws and Jurisdiction:** Any legal action shall be maintainable only in the Boulder County District Court for the State of Colorado and shall be governed by Colorado Law. All references in the Purchase Order to the Uniform Commercial Code shall mean the Uniform Commercial Code as adopted by the State of Colorado at Title 4, C.R.S., as amended. Vendor agrees to comply with all applicable federal and state laws, regulations and policies, as amended, including those regarding discrimination, unfair labor practices, anti-kick-back and collusion.
4. **Modifications:** The Purchase Order can be modified or rescinded only in writing signed by the Purchasing and Contracts Manager or his/her duly authorized representative. Vendor may not transfer the Purchase Order to a third party nor in any way amend the Purchase Order without prior written consent of the City.
5. **No Implied Representations:** No representations, agreements, covenants, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically set forth in the Purchase Order.
6. **Remedies:** City shall have rights and remedies afforded by the Colorado Uniform Commercial Code and other applicable laws.
7. **Payment:** To ensure prompt payment, e-mail invoices to the City's Accounts Payable division at the e-mail address provided on the face of the Purchase Order. Invoices not sent as directed may delay payment. Reference the Purchase Order number on the invoice(s). The City's standard payment terms are net 30 days upon receipt of invoice. Receipt of merchandise, services or equipment in response to this order can result in authorized payment on the part of the City. Final acceptance is dependent upon completion of all applicable required inspection procedures. Should the merchandise furnished fail to meet all inspection requirements, the City reserves the right to reject all or some of the goods or exercise any other remedies provided by law.
8. **Termination:**
 - a. **For Default/Cause:** Except as otherwise agreed, the Uniform Commercial Code shall govern. The City may withhold amounts due to the Vendor as the Purchasing and Contracts Manager or his/her duly authorized representative deems to be necessary to reimburse the City for excess costs incurred in curing, completing or procuring similar goods or services.
 - b. **For Convenience:** At the City's discretion, the Purchase Order may be canceled by written or oral notice to the Vendor prior to shipment of goods or delivery of services.
 - c. **Termination after Contract Formation.** Unless otherwise agreed in writing, in addition to the rights and remedies governing transactions in goods in the Uniform Commercial Code, the Purchasing and Contracts Manager or his/her duly authorized representative may, when the interests of the City so require, terminate the Purchase Order in whole or in part, for the convenience of the City. The Purchasing and Contracts Manager or his/her duly authorized representative shall give written notice of the termination to the Vendor specifying the part of the Purchase Order terminated and when termination becomes effective. Upon receipt of the notice of termination, the Vendor shall incur no further obligations except to the extent necessary to mitigate costs of performance. In the case of specially manufactured goods, the City shall pay the contract price or rate for supplies and services delivered and accepted and the reasonable costs of performance on unaccepted supplies and services. In the case of existing goods, the City shall pay the contract price for goods delivered and accepted and reasonable costs incurred in preparation for delivery of the undelivered goods.
9. **Fund Availability.** Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available. If the Purchase Order contemplates the purchase of goods/services to be delivered in a single installment, the City represents that it has set aside sufficient funds to make payment under the Purchase Order in accordance with its terms.
10. **Blanket Purchase Orders:** The City is obligated only to the extent of purchases

actually made and received under a Blanket PO. A Blanket Purchase Order is intended to authorize the purchase of goods or services from the vendor as needed for a fiscal year, and is not a guarantee of quantities or actual work required.

TERMS AND CONDITIONS FOR ACQUISITION OF GOODS:

11. **Delivery of Goods:** Vendor shall transfer and deliver goods to the City's place of business as stated on the Purchase Order, FOB destination. Title to the goods shall remain with the Vendor until the City receives the goods or by prior agreement of freight terms. A packing list must accompany each shipment.
12. **Warranties:** Vendor warrants that the goods are merchantable and as described on the Purchase Order. All provisions and remedies of the Uniform Commercial Code relating to both implied and expressed warranties are herewith referred to and made part of this agreement.
13. **Right of Inspection:** City shall have the right to inspect the goods at the time and place of delivery before accepting them. Damaged or substituted merchandise other than goods on the Purchase Order shall be refused and returned at Vendor's expense. Additional charges for packing or restocking will not be accepted.
14. **Sales Tax:** No sales tax or use tax shall be included or added to prices of materials on the order. The City is tax exempt from state and local taxes.
15. **Quality:** The City will be the sole judge in determining "equals" with regard to quality, price and performance. All products delivered shall be newly manufactured and of the manufacturer's current model, unless otherwise specified.
16. **Safety Information:** All chemicals, equipment and materials proposed and/or used in the performance of the Purchase Order must conform to the standards required by the Occupational Safety and Health Act of 1970. Vendors must furnish Safety Data Sheets (SDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

TERMS AND CONDITIONS FOR ACQUISITION OF SERVICES:

17. **Station of Work:** The Vendor shall provide and furnish at its own proper cost and expense all materials, machinery, equipment, tools, superintendence, labor, insurance and other accessories and services necessary to provide services in strict accordance with the conditions and prices stated in the Purchase Order and applicable documents.
18. **Insurance:** In addition to the insurance required in Item #2, when providing services, the Vendor shall obtain, at Vendor's own expense, all required insurance as specified. Deviations from the requirements must be submitted to and approved by the City's Risk Manager.
 - a. **WORKERS' COMPENSATION** coverage must be provided, as statutorily required for persons performing work under the Purchase Order. Vendor shall carry Employer's Liability coverage with limits of at least \$500,000. Vendor shall require any subcontractor hired by the Vendor to carry Workers' Compensation and Employer's Liability coverage.
 - b. **CERTIFICATE OF INSURANCE:** At the City's discretion, the City may request from any vendor providing services, a certificate of insurance as proof of required coverages. If requested, the COI shall be provided to: City of Longmont Purchasing and Contracts Division, 350 Kimbark Street, Longmont, CO 80501.
 - c. **PROFESSIONAL LIABILITY** or other insurance coverage as required and stated on face of Purchase Order.
19. **Responsibility for Payment of Damages:** Nothing contained in these insurance requirements shall limit the Vendor's responsibility for damages resulting from Vendor's operations under this contract.
20. **Indemnity:** The Vendor hereby releases and agrees to indemnify, defend and save harmless the City and its agents from and against all claims, actions, causes of action, demands, judgments, costs, expenses and all damages of every kind and nature, incurred by and on behalf of any person or corporation whatsoever, predicated upon injury to or death of any person or loss of or damage to property of whatever ownership, including the parties to this Contract and their employees, and arising out of or connected with, in any manner, directly or indirectly, the Vendor's operations.
21. **Status of Vendor:** The Vendor shall perform all work under this Contract as an independent Vendor and not as an agent or employee of the City. The Vendor shall not represent that Vendor is an employee or agent of the City in any capacity.
22. **Verification Regarding Illegal Aliens:** Vendor has confirmed the employment eligibility of all employees who will perform work under this Contract through participation in either the E-verify program administered jointly by the United States Department of Homeland Security and the Social Security Administration or the employment verification program of the Colorado Department of Labor & Employment.
23. **Duty to Terminate a Subcontract:** If Vendor obtains actual knowledge that a subcontractor performing work under the Purchase Order knowingly employs or contracts with an illegal alien, the Vendor shall, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien: (a) notify the subcontractor and the City within three days that the Vendor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract with the subcontractor if, within three days of receiving notice that the Vendor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien. Vendor shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S. 8-17.5-102 (5).

Revision Date: 05/25/2016