

## FRANKLIN COUNTY – PURCHASE ORDER TERMS AND CONDITIONS

### **Tax Exempt:**

Franklin County ("County") is tax exempt (Tax ID No. 31-6400067).

### **Governing Law/Venue:**

This Contract shall be governed by the laws of the State of Ohio (regardless of the laws that might be applicable under principles of conflicts of law) as to all matters, including but not limited to matters of validity, construction, effect and performance. All actions regarding this Contract shall be foruned and venued in the Court of Common Pleas Civil Division located in Franklin County, Ohio and the parties hereby consent to the jurisdiction of such court.

### **Acceptance by Vendor:**

By providing goods or services as specified by this Contract, or by accepting payment from the County, the Vendor accepts the terms in this document in their entirety. Unless specifically agreed in writing by the Parties and approved via resolution by the Franklin County Board of Commissioners, the terms in this document shall control over any contrary terms. Upon acceptance of this order by Vendor, Vendor acknowledges and states that the Vendor, its agents, employees, officers, or servants have no knowledge of any collusion, nor are in any manner, shape or form involved in any collusion involving product(s) or services addressed in this purchase order.

### **Delivery:**

Purchase Order number shall be shown on all boxes, packages, shipping documents, invoices, and correspondence. Prices must include all charges necessary to complete delivery to Franklin County, Ohio departments, agencies, courts, boards and commissions on an F.O.B. destination basis.

### **Transfer of Risk and Transfer of Title:**

1. Acceptance of and responsibility for material shipped on this order begins only upon delivery by the carrier to the designated destination.
2. The risk passes to the County only after acceptance of the ordered goods or acceptance of the performed services at the appointed place of delivery in accordance with the agreed terms of delivery and to the satisfaction of the County.
3. The legal and beneficial title and all property rights to goods specified in the purchase order shall transfer at the point of delivery and acceptance by the County.

### **Payment:**

The County typically makes payment within 30 days from the day the invoice is received. No payment shall be made until the materials, supplies, equipment, or services have been fully delivered and accepted, and the work has been completed to the full satisfaction of the County. The County will not pay late fees, interest, or other penalties for later payment.

### **Substitutions:**

Substitutions or alterations under this Contract are not permitted unless authorized by the County.

### **Indemnification:**

Vendor shall assume the defense of, indemnify, and save harmless the County and all Franklin County agencies, including public officials and employees acting in the course of their employment, from any and all third party claims, damages, lawsuits, costs, judgments, expenses, and any other liabilities that may arise from the Vendor's performance of the work required under this Contract, and including Vendor's employees and agents, in the course of providing the goods and/or services.

### **Unresolved Finding for Recovery:**

Ohio Revised Code §9.24 prohibits the County from awarding a contract to any vendor against whom the Auditor of the State has issued a finding for recovery if the finding for recovery is "unresolved" at the time of the award. By Vendor's performance of work under this Contract, Vendor warrants that it is not now, and will not become subject to an "unresolved" finding for recovery under O.R.C. §9.24, prior to the award of any contract, without notifying the County of such finding.

If, after the Contract is awarded, it is determined that an "unresolved" finding for recovery had been issued against the Vendor prior to the award, the Contract shall be void. The Vendor understands that Vendor shall be responsible to the County for any expenditure against the Contract.

### **Non-Discrimination/Equal Opportunity:**

Vendor agrees that in the hiring of employees for the performance of work under the Contract, Vendor shall not, by reasons of race, color, religion, sex, age, disability, military status, veteran status, national origin, ancestry, sexual orientation, or gender identity, discriminate against any citizen of this state in the employment of a person qualified and available to perform the work to which the Contract relates. The Vendor, or any person acting on behalf of Vendor, shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under the Contract on account of race, color, religion, sex, age, disability or military status, veteran status, national origin, ancestry, sexual orientation, or gender identity.

By Vendor's performance of work under this Contract, Vendor certifies that it complies with the express language contained in §125.111 of the Ohio Revised Code regarding Non-Discrimination/Equal Opportunity.

All contractors who contract with the state or any of its political subdivisions for materials, equipment, supplies, contracts of insurance, or services shall have a written affirmative action program for the employment and effective utilization of economically disadvantaged persons, as defined in §122.71 of the Ohio Revised Code. Annually, each such contractor shall file a description of the affirmative action program and a progress report on its implementation with the department of development.

### **Warranty:**

All equipment will carry the manufacturer's standard warranty unless a greater warranty is specified in the Contract. Acceptance of product and/or services by the County will mark the commencement of the warranty period.

### **Certificate of Insurance/Workers' Compensation Certificate:**

Vendor acknowledges that it is an independent contractor of the County and entering this Contract does not create an employer-employee relationship, partnership, or joint venture. Vendor shall have no claim against the County for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or other employee benefits or any kind. Vendor represents that it has current commercial general liability insurance and current Workers' Compensation insurance. The County reserves the right to request from the Vendor proof of their Certificate of Insurance and a copy of their Workers' Compensation Certificate.

### **Cancellation:**

The County reserves the right to cancel all or any portion of this Contract a) for convenience upon providing the Vendor 30-day written notice, b) immediately upon providing written notice to Vendor of non-appropriation of funds necessary for the continuation of the Contract, or c) if the Vendor fails to meet the terms and conditions, including delivery schedules, of the Contract.

### **Public Record:**

With limited exception, pursuant to Ohio Revised Code §149.43, all information submitted by Vendor shall be considered a public record. Vendor agrees to hold the County harmless for release of any such information pursuant to Ohio Public Records law.

### **Cyber Breach:**

Vendor shall have a plan and adequate resources to address telecommunications and computer systems breach, and shall maintain intrusion detection services and procedures and/or data breaching systems to detect and address "hacking" and "phishing operations" into the Vendor's telecommunications system, that includes services and systems to detect any unauthorized access to or unauthorized activity on the Vendor's telecommunications system, networks, computer systems, and network devices associated with the use of and access to the County's management systems, databases, and County information and data. Vendor will ensure that all intrusion detection measures and data breach systems are maintained and functional on a regular basis. Intrusion detection services and data breach systems shall include, at minimum, network-based intrusion detection and active monitoring of appropriate computer system access logs. Vendor shall notify the County, as soon as reasonably possible, of its detection of any potential or suspected intrusions that may affect the County with regard to disbursement of payments or access to County systems, networks, data, or information. Failure by Vendor to provide this notification shall be a breach under the Contract. Vendor shall be liable for all costs and damages to the County related to or arising from the breach of Vendor's telecommunications systems, networks, or computer systems. Vendor shall provide the County a historical record of prior breaches of security or intrusions, including all prior incidents of "hacking," that have previously been detected in the Vendor's system.

### **Invalid Terms and Conditions:**

1. Except as otherwise required or permitted by state or federal law, a contract entered into by the County for the procurement of goods or services shall not include any of the following:
  - a) A provision that requires the County to indemnify or hold harmless another person.
  - b) A provision by which the County agrees to binding arbitration or any other binding extra-judicial dispute resolution process.
  - c) A provision that names a venue for any action or dispute against the County other than a court of proper jurisdiction in Franklin County, Ohio.
  - d) A provision that requires the County to agree to limit the liability for any direct loss to the County for bodily injury, death, or damage to property of the County caused by the negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of a person or a person's employees or agents, or a provision that would otherwise impose an indemnification obligation on the County.
  - e) A provision that requires the County to be bound by a term or condition that is unknown to the County at the time of signing a contract, that is not specifically negotiated with the County, that may be unilaterally changed by the other party, or that is electronically accepted by a County employee.
  - f) A provision that provides for a person other than the Prosecuting Attorney to serve as legal counsel for the County, unless allowed for under the process set forth in section 309.09 of the Revised Code.
  - g) A provision that is inconsistent with the County's obligations under section 149.43 of the Revised Code.
  - h) A provision for automatic renewal such that County funds are or would be obligated in subsequent fiscal years.
  - i) A provision that limits the County's ability to recover the cost of cover for a replacement contractor.
2. If a contract contains a term or condition described in division (1) of this section, the term or condition is void ab initio, and the contract containing that term or condition otherwise shall be enforceable as if it did not contain such term or condition.
3. A contract that contains a term or condition described in division (1) of this section shall be governed by and construed in accordance with Ohio law notwithstanding any term or condition to the contrary in the contract.