

PURCHASE ORDER TERMS AND CONDITIONS

1. **ETHICS IN PUBLIC CONTRACTING:** The provisions contained in Section 2.2-4367 through 2.2-4377 of the Virginia Public Procurement Act, as set forth in the 1950 Code of Virginia, as amended, shall be applicable to all contracts solicited or entered into by the City of Manassas. A copy of these provisions may be obtained from the Purchasing Agent upon request.

The provisions of this article supplemental, but do not supersede, other provisions of law including, but not limited to, the Virginia Conflict of Interest Act (§2.1-348 et. seq.), the Virginia Governmental Frauds Act (§18.2-498.1 et. seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2. The provisions apply notwithstanding the fact that the conduct described may not constitute a violation of the Virginia Conflict of Interests Act.
2. **EMPLOYMENT NON-DISCRIMINATION:** Contractors providing goods and/or services to the City of Manassas under this order assure the City they are conforming with Section 2.2-4311, "Employment Discrimination by Contractor Prohibited", of the Virginia Public Procurement Act and the Rehabilitation Act of 1973 Section 504, The Americans with Disabilities Act (ADA) for 1990 Title II and the Virginians with Disabilities Act of 1990.
3. **DRUG FREE WORKPLACE:** In every contract over \$10,000 the following provisions apply: During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace, and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. A "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
4. **TAX EXEMPTION: STATE SALES AND USE TAX CERTIFICATE OF EXEMPTION, FORM ST-12 WILL BE ISSUED UPON REQUEST, IF YOU DO NOT HAVE SAME ON FILE.**
5. **INVOICING:** The Contractor must indicate the purchase order number on all related invoices, delivery tickets, bills of lading, packages and/or correspondence. All invoices shall be in the same legal name of the Contractor as indicated on the purchase order.
6. **NET 30 DAYS:** In the absence of other contractual terms, payment shall be due thirty (30) days after receipt of proper invoice, or material/service, whichever is the later.
7. **F.O.B. MANASSAS:** All prices, unless specified otherwise, are net F.O.B. Destination with transportation charges prepaid. If shipment is made by freight or express and charges added to invoice, the original bill of lading properly receipted shall accompany invoice. All charges must be prepaid.
8. **W-9:** Prior to the beginning of the prompt payment of an invoice, City of Manassas shall have on file in the Accounting Division's Office, 9027 Center Street, Room 303, Manassas, VA 20110 a current, completed W-9 "REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION" form.
9. **CHANGE ORDERS:** No substitution, change or deviation shall be made without written authority from the City of Manassas by Purchase Order Change.
10. **DEFAULT:** In case of default by the successful bidder, or failure to deliver the supplies or services ordered by the time specified, the City of Manassas after due notice (oral or in writing), may procure them from other sources and hold Contractor responsible for any excess cost occasioned thereby.
11. **BPOL:** In accepting this order, the Contractor agrees to conform to local business license tax liabilities where applicable. Questions should be referred to the Commissioner of the Revenue's Office (703) 257-8214.
12. **TESTING AND INSPECTION:** Equipment, materials, and/or supplies, delivered on this order shall be subject to inspection and test upon receipt and if rejected shall remain the property of the Contractor.
13. **PATENT INFRINGEMENT:** Contractor agrees to indemnify City and hold it harmless from and against all liability, loss, damage and expense, including reasonable counsel fees, resulting from any actual or claimed trademark, patent or copyright infringement, or any litigation based thereon, with respect to any part of the goods covered by this order, and such obligation shall survive acceptance of the goods and payment therefore by the City.
14. **INSURANCE:** Contractors performing work on City's owned or leased property shall during the entire term of the contract (period of performance), maintain at a minimum, the following insurance coverage:

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED:

- A. Worker's Compensation – Statutory requirements and benefits
- B. Employers Liability - \$100,000
- C. Commercial General Liability - \$1,000,000 Combined Single Limit Bodily Injury and Property Damage Each Occurrence. These coverage's are to be included Products/Completed Operations Liability, Personal Injury Liability, and Independent Contractor's Liability.
- D. Automobile Liability \$1,000,000

The City of Manassas shall be named as additional insured on Auto and General Liability Policies. Additional insurance coverage are required in accordance with prevailing contract referenced on the purchase order. The City of Manassas reserves the right to require the Contractor to provide evidence of required insurance coverage.

15. **GOVERNING LAWS:** This Purchase Order/Contract shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise by the laws of the Commonwealth of Virginia.

16. **NON-DISCRIMINATION:** The City of Manassas in procuring goods and services, or in making disbursements pursuant to this section, shall not discriminate against a faith-based organization on the basis of the organization's religious character or impose conditions that restrict the religious character of the faith-based organization, except funds provided for expenditure pursuant to contracts with public bodies shall not be spent on religion worship, instruction, or proselytizing, or impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursement.
17. **PAYMENT CLAUSE PURSUANT TO 2.2-4354 OF VPPA:** Within seven days after receipt of amounts paid to the Contractor by the Owner for satisfactorily completed performance, the prime contractor agrees to:
 1. Pay the subcontractor for the proportionate share of the total payment received from the Owner attributable to the work performed by the subcontractor under that contract; or
 2. Notify the Owner and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

If the Contractor after having received payment for the Owner fails to pay each subcontractor its proportionate share of the total payment, the Contractor shall be obligated to pay interest to each subcontractor on all amounts that remain unpaid after the seven days following receipt by the Contractor of payment from the Owner.

Unless otherwise provided under the terms of this Contract, interest shall accrue at a rate of one percent per month against the Contractor on any unpaid amounts owed to each subcontractor.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

Contractors that are (1) individuals must provide their social security numbers and (2) proprietorships, partnerships, and corporations must provide their federal employer identification numbers.

18. **INDEMNIFICATION:** To the fullest extent of the law, the Contractor shall indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner from any and all claims, judgments, suits, losses, damages, payments, costs, fines and or fees levied against the Owner and expenses of every nature and description, including attorney's fees, arising out of, connected or associated with or resulting from the lack of performance or the negligent performance of work as described in this Contract, Contract Documents or any agreement that results from this Contract. Further, if any recipient of a contract subcontracts for work, they will enter into a contract with such subcontractor(s) which indemnifies, defends, and holds harmless the Owner and its officers, agents, employees and community representatives, from any and all claims and losses accruing or resulting from the negligent performance of work as described in any agreement that results from this Contract.

To the fullest extent of the law, the Contractor shall also indemnify, defend, and hold harmless the Owner and its officers, agents, employees, community representatives, volunteers or other working on behalf of the Owner against all costs, including reasonable attorney's fees, arising from liens encumbering the Owner's Property filed by subcontractors, sub-subcontractors, material men, suppliers and all other persons and entities acting for and under the Contractor, and the Contractor shall immediately discharge or bond such liens off.

Virginia is a Dillon Rule state. Unless specifically permitted by statute, indemnification or attempt to have the City "hold harmless" others are invalid and unenforceable or an impermissible waiver of the City's sovereign immunity which may create potential future debt in violation of Virginia Constitutional and statutory requirements. **The City does not waive its sovereign immunity.**

19. **FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH**

1. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.
2. A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of this contract. The City may void any contract with a business entity if the business entity fails to remain in compliance with this provision.

20. **TERMS AND CONDITIONS:** The City of Manassas will not consider additional terms and conditions from Contractor's unless specifically agreed to in writing.