

Amador County

Standard - Terms and Conditions for Purchase Orders

- Contract:** Unless a separate written agreement covering this purchase has been signed by both parties, this purchase order constitutes the County of Amador's (County) offer to vendor/supplier/contractor/consultant (Seller) and it shall become a binding contract upon the Terms and Conditions set forth herein upon acceptance of Seller either by acknowledgement or furnishing Materials and/or Goods (Goods); and/or Service and/or Work (Work). This Purchase Order, including Forms 1, 2 & 3 and any attachments hereto, contains the entire agreement between the County and Seller relating to the Goods and/or Work identified herein; and Seller warrants he/she has read and is in compliance with the Purchase Order. Any terms and conditions (including price and delivery dates) proposed by the Seller which are inconsistent with or in addition to these terms and conditions shall be void and of no effect unless and to the extent expressly accepted by the County in writing. If the Goods and/or Work ordered herein are as a result of either a formal *Request for Quotation (RFQ)*, *Request for Proposal (RFP)* or *Notice Inviting Bids (NIB)* then the Terms and Conditions set forth in this document are considered to be in addition to the requirements and specifications stated in the *RFQ*, *RFP* or *NIB*. To the extent that one set of Terms and Conditions may contradict the other, the requirements of the *RFQ*, *RFP* or *NIB* shall supersede the Terms and Conditions shown below. It is understood that all materials and/or Goods and/or Work provided by Seller shall conform to the applicable requirements of County Ordinances, and all applicable State and Federal Laws.
- Vendors and Suppliers:** Vendors and Suppliers shall mean the entity to whom the Purchase Order is directed as specified on the Purchase Order.
- Contractors and Consultants:** Contractors and Consultants shall mean the entity to which the Purchase Order is directed and/or is the entity furnishing Goods and/or Work as specified on the Purchase Order.
- Materials and/or Goods (Goods):** Goods shall mean the items described on the Purchase Order and/or the Vendors/Suppliers/Contractors/Consultants (Sellers) proposal, if the proposal is referenced on a Purchase Order.
- Service and/or Work (Work):** Work shall mean any service, installation, maintenance, construction, reconstruction, alteration, repair, renovation, removal, erection, improvement, demolition, surveying, or repair work, performed by a Contractor and/or Consultant. Work shall also include, but not limited to, Work performed by consultants, architects, engineers, and any other professional providing Work specified on the Purchase Order.
- Invoices:** Submit fully itemized invoice to the address indicated on the purchase order. Submit a SEPARATE invoice for each order or shipment. Mark each invoice, delivery receipt, packing slip, bill of lading, shipping documents, etc, with the Purchase Order (PO) number. *Not referencing a correct PO number on the invoice, or using an incorrect or old PO number, will delay payment of the invoice.* Invoices shall contain the following information: Supplier's Federal Tax I.D. number, purchase order number, invoice number and date, item number, description of Goods and Work, quantities and units of measure, unit prices and extended totals. Bill of Lading number and weight of shipment will be shown for shipments on Government Bills of Lading.
- Sales Tax:** Sales tax must be shown on the invoice as a separate item. Vendors/suppliers/contractors/consultants (Seller) who sell taxable goods in the County or who deliver taxable goods into the County via their own vehicles are required to collect this tax. **Out-of-state vendors** Out-of-State vendors must show California Board of Equalization Permit number. Otherwise, sales tax will be automatically deducted. (PO's do include sales tax based on Amador County's current tax rate).
- Excise Tax:** If federal excise tax is applicable to the transaction, it must be clearly stated so and excluded from the price of the article. The County, as a government agency, is exempt from the payment of said tax and will issue a Federal Identification Number, if requested.
- Delivery:** Seller shall deliver Goods to General Services Administration, 12200-B Airport Road, Jackson, CA 95654 unless stated otherwise on the PO. Attach an itemized delivery ticket, bearing the purchase order number, to the shipment to insure timely payment. Report delays in shipment immediately to the General Services Administration. Goods must be properly packaged. Damaged goods and materials will not be accepted, and it will be the Seller's responsibility to pick up rejected goods and materials, make the necessary corrections and redeliver acceptable goods and materials timely. **Note:** most County facilities do not have a loading dock, and delivery via a lift gate truck may be necessary. Seller shall deliver the Goods stated herein free from any and all claims, debts, or demands whatsoever. Deliveries shall be made as set forth in this PO and any additional Specifications incorporated. Delivery is defined as complete delivery in good order, at place designated in the Specifications/Purchase Order.

10. **Shipping and/or Freight Charges:** All shipments must be **F.O.B. destination**; Seller pays all charges, unless specified otherwise in the body of this PO. Shipping and/or Freight Charges (Delivery Costs) not set forth in this purchase order will not be paid.
11. **Miscellaneous Charges:** No charges for transportation, containers, packing, etc. will be allowed unless so specified in this order. Ship on this order only if the terms and conditions are accurate. No deviations or extra charges are permitted. If the complete shipment cannot be made or if changes are necessary, notify the Purchasing Department immediately.
12. **Payment:** The time for payment of invoices, less any discounts offered, shall run only from the date that correct invoices are received by General Services Administration. Payment terms are Net 30 after receipt of Goods or Work unless otherwise agreed to by both the parties. All Cash Discounts shall be taken and computed from the date of delivery or completion and acceptance of the Goods and/or Work, or from the date of receipt of invoice, whichever is latest. Each payment obligation of the County is conditioned upon the availability of state or local government funds which are apportioned or allocated for the payment of such an obligation. If the funds are not allocated and available for the continuance of the function performed by the Seller, the Goods or Work directly or indirectly involved in the performance of that function may be terminated by the County at the end of the period for which funds are available. **Unless stated otherwise on the PO, all PO's are automatically canceled six (6) months from the date of issuance.**
13. **Warranty:** Seller warrants that all articles will conform to applicable specifications, drawings, descriptions and samples, and will be merchantable, of good workmanship and material and free from defect. Unless manufactured pursuant to detailed design furnished by County, Seller assumes design responsibility and warrants the articles to be free from design defect and suitable for the purpose intended by the County. Seller's warranties, together with its guarantees, shall extend to County and its users of the Goods or Work and shall not be deemed to be exclusive. County's inspection, approval, acceptance, use of or payment for all or any part of the Goods or Work shall in no way affect its warranty rights whether or not a breach of warranty has become or should have become evident at the time. No acceptance or payment by County shall constitute a waiver of the forgoing, and nothing herein shall exclude or limit any warranties implied by law.
14. **Liability:** Any Goods or Work to be furnished hereunder shall not, either in construction, manufacture, use, sale or other instance, infringe any letters patent, copyright or registered trademark heretofore granted and the Seller shall defend and pay the entire cost of defending any claim or suit whenever or wherever made or brought against the County based upon an infringement or alleged infringement of such letters patent, copyright or registered trademark and shall indemnify and save harmless the County from and against any and all liability, damage, loss or injury adjudged or sustained in any such claim or suit.
15. **Cancellations:** The County shall have the right to terminate this contract at any given time upon written notice to the Seller. County reserves the right to cancel any order where Goods or Work are not received within thirty (30) days of the purchase order date, with or without cause, unless a longer or shorter delivery period is specified in the Purchase Order.
16. **Default:** In case of a default of the Seller, the County may procure the Goods or Work from another source and charge the Seller as liquidated damages any excess cost or damages occasioned thereby and withhold any payments due. Seller must notify the County immediately upon knowing that non-performance or delay will apply to this order whether as a result of *Force Majeure* or not. Seller shall not be held accountable for additional costs incurred due to default as a result of *Force Majeure*. When delay is ascertained Seller is to submit in writing a Recovery Plan for this order. If the Recovery Plan is not acceptable to the County or not received within five (5) calendar days of the necessary notification of delay or *Force Majeure* default, then the County may cancel this order in its entirety at no cost to the County, owing only for Goods and Work completed to that point.
17. **Insurance:** When applicable, Sellers must provide satisfactory proof of general liability, automotive liability and workers' compensation insurance coverage as prescribed in "**Terms and Conditions Form 2 - Insurance Requirements for Vendors & Suppliers**" and/or "**Terms and Conditions Form 3 - Insurance Requirements for Contractors & Consultants**". Applicability of insurance requirements is the sole determination of the County.
18. **Indemnity:** Seller agrees to indemnify, defend and hold harmless the County, its officers, agents and employees, from and against any and all claims, demands, actions, damages, or judgments, included associated costs of investigation and defense arising in any manner from Seller's negligence, recklessness, or willful misconduct in the performance of this purchase order. Seller will conduct all defenses at its sole cost and expense. County shall be reimbursed for all costs and attorneys' fees incurred by the County in enforcing this obligation. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of the indemnification to be provided by Seller.
19. **Licensing Requirements:** Seller warrants that it has complied with any and all state and local licensing requirements and agrees to obtain a County Business License if Seller's company is located in or provides Goods and/or Work in the County. For information on how to obtain a business license, call the County's Records Office at 209-223-6468.

20. **Non-Discrimination:** Seller agrees hereby to provide Goods and/or Work without discrimination based on race, creed, color, ethnic, or linguistic identification, gender or sexual preference, disability or handicap or any other basis prohibited by law.
21. **Inspection and Acceptance:** Inspection and acceptance shall be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejections, risk of loss shall be on the Seller unless loss results from the negligence of the County. Notwithstanding the requirement for any inspection and test contained in specifications applicable to this contract, except where specialized inspection or tests are specified solely for the County, the Seller shall perform or have performed the inspection and tests required to substantiate that the Goods and/or Work provided under the contract conform to the drawings, specifications, and contract requirements incorporated herein, including if applicable the technical specifications for the manufacturers' part numbers specified herein. Inspection on deliveries or offers for deliveries, which do not meet specifications, will be at the expense of the Seller.
22. **Examination of Site:** The Seller shall have examined the site of work and shall be responsible for having acquired full knowledge of the job and of all problems affecting it. No variations or allowance from the contract sum will be made because of lack of such examination.
23. **Material Safety Data Sheet:** With the invoice, or within 25 days of delivery, the Seller must provide to the County a Material Safety Data Sheet for each product which contains any hazardous substance as required by California or Federal law.
24. **Audit and Retention:** The Contractor shall maintain in good and legible condition all books, documents, papers, data files and other records related to its performance under this contract. Such records shall be complete and available to Amador County, the State of California, the federal government or their duly authorized representatives for the purpose of audit, examination, or copying during the term of the contract and for a period of at least three years following the County's final payment under the contract or until conclusion of any pending matter (e.g., litigation or audit), whichever is later. Such records must be retained in the manner described above until all pending matters are closed.
25. **Assignment of Claims:** Claims for monies due or to become due under this contract shall be assigned only pursuant to prior written consent of the County Purchasing Officer or designated representative. Neither party shall assign this agreement nor its rights or duties under this agreement without written consent of the other party.
26. **Governing Law:** Any action filed regarding the award of the Quote/Bid/Proposal must be filed with the Superior Court of the County of Amador, California. Any subsequent agreement shall be deemed to have been entered into in Jackson, California; all questions of the validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to the agreement shall be governed by California law; and any action brought by either party to enforce any of the terms of the agreement shall be filed with the Superior Court of the County of Amador, California.
27. **Alcohol-Free and Drug-Free Work Place Policy:** That while performing any services pursuant to the Contract, being present on any County property, or using any County equipment, the Contractor, its employees, sub-contractors and agents (1) Shall not be in any way be impaired because of being under the influence of alcohol or a drug; (2) Shall not possess, consume, or be under the influence of alcohol and/or an illegal drug; and (3) Shall not sell, offer, or provide alcohol or an illegal drug to another person. If Contractor, or any employees, sub-contractors violate any of the above provisions, the County may terminate the Contract immediately.
28. **Antitrust Claims:** In entering into a public contract or a subcontract to supply goods, services or materials pursuant to a public contract, Contractor or subcontractor offers and agrees to assign to the awarding body all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act, (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time County tenders final payment to Contractor, without further acknowledgment by the parties.
29. **Loss Leader:** It is unlawful for any person engaged in business within this State to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344 (e)).
30. **Knock Out Clause:** This Purchase Order is limited to the terms and conditions contained herein. Any additional or different terms proposed by Vendors/Suppliers/Contractors/Consultants in any quotation, acknowledgement, or any other document are hereby deemed to be material alterations and notice of objection to them is hereby given.