

## KENDALL COUNTY PURCHASE ORDER TERMS AND CONDITIONS

Vendor's acceptance of payment, commencement of work, or shipment or partial delivery of any items, goods, or services called for herein shall constitute acceptance by Vendor of this Purchase Order and the Terms and Conditions attached hereto (individually and collectively referred to as the "Purchase Order Documents") The Purchase Order Documents contain the entire understanding of Kendall County ("County") and the Vendor regarding the subject matter of the Purchase Order and supersedes all prior agreements, oral or written, and all other communications between the parties regarding the subject matter.

Vendor further agrees that, in the event there is a conflict between the Purchase Order Documents attached hereto and any other contractual terms and conditions set out or incorporated by reference in Vendor's quotes, invoices or any other forms of Vendor, the Purchase Order Documents shall control. The Purchase Order Documents shall not be amended or modified, except by mutual written agreement and signed by the parties.

Furthermore, Purchase Orders constitute expenditures of public funds, and all Vendors are hereby placed on notice that any quotes, invoices or any other forms that seek to unilaterally impose contractual or quasi-contractual terms are subject to the extent authorized by Texas law, including but not limited to the Texas Constitution, the Texas Local Government Code, the Texas Government Code, the Texas Health & Safety Code, and Opinions of the Texas Attorney General relevant to local governmental entities.

1. **ACCEPTANCE OF PRODUCTS AND SERVICES:** All products furnished, and all services performed hereunder shall be to the satisfaction of County and in accordance with the specifications, terms, and conditions of the Purchase Order Documents. County reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services. Further, County may, at Vendor's expense, reject and return non-conforming goods or require reperformance of services which are not in compliance with the requirements of the Purchase Order. Defects shall not be deemed waived by County's failure to notify Vendor upon receipt of goods or completion of services, or by payment of invoices.
2. **APPROPRIATED FUNDS.**
  - (a) Vendor clearly understands and agrees, such understanding and agreement being of the absolute essence of this the Purchase Order, that County shall have available the total maximum sum provided in the Purchase Order Documents specifically allocated to fully discharge any and all liabilities County may incur.
  - (b) Vendor does further understand and agree, said understanding and agreement also being of the absolute essence of the Purchase Order Documents, that the total maximum compensation that Vendor may become entitled to and the total maximum sum that County may become liable to pay to Vendor shall not under any conditions, circumstances, or interpretations thereof exceed the price provided in the Purchase Order Documents
3. **AUTHORIZED EXPENSES:** In the event County authorizes, in advance and in writing through a Change Order or Amendment, reimbursement of non-labor expenses related to the services subject of this Purchase Order, County will pay such actual non-labor expenses in strict accordance with the County Vendor Reimbursement Policy (as amended), which is incorporated into and made a part of these Purchase Order Documents by reference. Invoices requesting reimbursement for authorized non-labor expenses must be accompanied by copies of the Vendor's invoice and clearly set forth the actual cost of the expenses, without markup.
4. **CHANGES; MODIFICATIONS:** County shall have the right, at any time, to make changes to the scope of the Purchase Order. If such changes cause a material increase in the Vendor's cost and/or time for performance, the Vendor shall notify County in writing within ten (10) calendar days from the date of the Vendor's receipt of the notice of change, and an equitable adjustment in the price and/or time of performance shall be mutually agreed upon between the parties. No such changes shall be effective in the absence of express written acceptance and direction of County.

5. COMPLIANCE WITH LAWS: It is agreed that goods delivered and/or services provided shall comply with all Federal, State, and local laws relative thereto. Upon request, Vendor shall furnish to County certificates of compliance with all such laws, rules, regulations and ordinances.
6. CONFLICT OF INTEREST: Vendor shall comply with all state and local laws relating to conflict of interest, including but not limited to Chapter 176 of the Texas Local Government Code, and that failure to comply is grounds for termination of the Purchase Order.
7. COUNTY TAXES: County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. If the Vendor subsequently becomes delinquent in the payment of County taxes, that may be grounds for cancellation of the Purchase Order. Despite anything to the contrary, if the Vendor is delinquent in payment of County property taxes at the time of invoicing, Vendor assigns any payments to be made for performance under this Purchase Order to the County Tax Assessor-Collector for the payment of delinquent taxes.
8. DESCRIPTION OF SUPPLIES: Any catalog or manufacturer's reference used in describing any item is merely descriptive and not restrictive, unless otherwise noted, and is used to indicate type and quality of material. The term "Or Equal," if used, identifies commercially produced items which have the essential performance and salient characteristics of the brand name stated in the item description. Vendor certifies that any substitute brand supplied hereunder matches the performance and salient characteristics of the item called for and agrees to replace it in the event it does not conform. All supplies or equipment shall be the latest improved new model meeting specifications in current production at the time of delivery and shall be delivered completely assembled, adjusted, serviced, and ready for use. Vendor warrants that all applicable Patents and Copyrights which may exist on items sold hereunder have been adhered to and that County shall not be liable for any infringement of those rights.
9. FOB POINT INSPECTION AND ACCEPTANCE: An itemized packing list bearing Purchase, Delivery, and/or Order Number shall be attached to the outside of every shipping container delivered against this instrument. Delivery of all goods or services shall be Free on Board to final destination as outlined herein unless otherwise required. The title and risk of loss of the goods shall not pass to County until County received and takes possession of the goods at the point or points of delivery.
10. CONFIDENTIAL AND PROPRIETARY INFORMATION.
  - (a) Vendor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Vendor or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Vendor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that:
    - (i) Is or becomes (other than by disclosure by Vendor) publicly known or is contained in a publicly available document;
    - (ii) Is rightfully in Vendor 's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or
    - (iii) Is independently developed by employees or agents of Vendor who can be shown to have had no access to the Confidential Information.
  - (b) Vendor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Vendor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Vendor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Vendor shall advise County immediately in the event Vendor learns or has reason to believe that any person who has had access to Confidential

Information has violated or intends to violate the terms of this Agreement and Vendor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Vendor against any such person. Vendor agrees that, except as directed by County, Vendor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Vendor will promptly turn over to County all documents, papers, and other matter in Vendor's possession which embody Confidential Information.

- (c) Vendor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Vendor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.
- (d) In providing all services hereunder, Vendor agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
- (e) Vendor expressly acknowledges that County is subject to the Texas Public Information Act ("TPIA"), Tex. Gov't Code Ann. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the TPIA. Any proprietary or confidential information marked as such provided to County by Vendor shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the TPIA, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

#### 11. INDEMNIFICATION:

- (a) VENDOR SHALL DEFEND, INDEMNIFY, AND SAVE HARMLESS COUNTY AND ALL ITS OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, PARTNERS AND DIRECTORS (COLLECTIVELY, THE "INDEMNITEES") FROM ANY AND ALL LIABILITIES, LOSSES, COSTS, SUITS, CLAIMS, ACTIONS, DAMAGES, DEMANDS OR OTHER DEMANDS OF ANY CHARACTER (INCLUDING ATTORNEY'S FEES AND COSTS OF SUIT) ARISING OUT OF OR IN CONNECTION WITH: (A) ANY BREACH OF THESE PURCHASE ORDER DOCUMENTS BY THE VENDOR; (B) ANY ACTS OR OMISSIONS OF THE VENDOR OR ITS EMPLOYEE, AGENTS, OR SUBCONTRACT IN THE PERFORMANCE OF THE PURCHASE ORDER; AND/OR (C) ANY VIOLATION OF APPLICABLE LAWS, REGULATIONS, ORDERS BY THE VENDOR.
- (b) VENDOR SHALL DEFEND, INDEMNIFY, AND SAVE HARMLESS THE INDEMNITEES FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, DAMAGES, LOSSES, COSTS, OR EXPENSES (INCLUDING ATTORNEY'S FEES AND COSTS OF SUIT) REGARDLESS OF THE NATURE OR THEORY OF THE CLAIM, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES, ILLNESS, DEATH, OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON, PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OR FAULT OF THE VENDOR, OR OF ANY AGENT, EMPLOYEE, SUBCONTRACTOR OR SUPPLIER IN THE EXECUTION OF, OR PERFORMANCE UNDER, THIS PURCHASE ORDER. VENDOR SHALL PAY ANY JUDGMENT WITH COST, WHICH MAY BE OBTAINED AGAINST COUNTY GROWING OUT OF SUCH INJURY OR DAMAGES.
- (c) VENDOR SHALL DEFEND, INDEMNIFY, AND SAVE HARMLESS THE INDEMNITEES AGAINST ANY CLAIMS, DAMAGES, OR EXPENSES (INCLUDING ATTORNEY'S FEES AND COSTS OF SUIT) ARISING FROM ALLEGATIONS THAT ANY PRODUCT, SERVICE, OR DELIVERABLE PROVIDED UNDER THESE PURCHASE ORDER DOCUMENTS INFRINGES UPON ANY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET, OR OTHER PROPRIETY INTEREST OF ANY THIRD PARTY. THE OBLIGATIONS UNDER THIS INDEMNIFICATION CLAUSE SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THESE PURCHASE ORDER DOCUMENTS.

- 12. NO WAIVER OF SOVEREIGN IMMUNITY AND POWERS: Nothing in these Purchase Order Documents shall be construed to waive the County's sovereign immunity. Furthermore, all indemnification or limitations of liability or statutes of limitation shall be to the extent authorized by the Constitution and laws of the State of Texas.

13. **INDEPENDENT CONTRACTOR:** It is agreed and understood that the Vendor shall be deemed to be an independent contractor in all its operations and activities hereunder; that any employees furnished by the Vendor to perform services required by the Purchase Order shall be deemed to be the Vendor's employees or independent subcontractors; that Vendor's employees shall be paid by Vendor. The Vendor shall indemnify, defend, and hold County, and its Indemnitees, harmless from any claims relating to the payment of salary, compensation, benefits, workers' compensation, or taxes to Vendor's employees or agents.
14. **INSURANCE:** If the Vendor is required to perform work or services on or to County property, the Vendor shall assume full responsibility and expense to obtain all necessary insurance as required by County. Vendor shall send required certificates of insurance to Risk Management Department prior to the commencement of any work or services. Failure to comply with these Insurance Requirements may result in the termination of the Contract. Vendor shall obtain such insurance written on an Occurrence form from such companies having Bests' rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- (a) Statutory Worker's Compensation and Employer's Liability Insurance with waiver of subrogation.
  - (b) Commercial General Liability Insurance with limits for bodily injury and for property damages of not less than \$2,000,000 Combined Single Limit with County named as an additional insured.
  - (c) Comprehensive Automobile Liability insurance with single limits of \$1,000,000 for Bodily Injury and Property Damage Liability.
  - (d) Professional Liability insurance with limits not less than \$1,000,000.
  - (e) Professional Liability insurance for IT Technology, including Cyber Risk may be made on a Claims Made form with limits not less than \$1,000,000 each claim/loss with a \$2,000,000 aggregate. The insurance should provide coverage for the following risks:
    - (a) Liability arising from theft, dissemination, and/or use of confidential information (a defined term including but not limited to bank account, credit card account, personal information such as name, address, social security numbers, etc., information) stored or transmitted in electronic form;
    - (b) Network security liability arising from the unauthorized access to, use of, or tampering with computer systems, including hacker attacks or inability of an authorized third party to gain access to your services, including denial of service, unless caused by a mechanical or electrical failure; and
    - (c) Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network, or similar computer-related property and the data, software, and programs thereon.

All Liability policies including Workers' Compensation written on behalf of Vendor shall contain a waiver of subrogation in favor of Kendall County and members of Commissioners Court.

If required coverage is written on a claims-made basis, Vendor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time that work under the Purchase Order Documents is completed.

15. **NOTICES:** All notice by either party to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid addressed as follows:

County: Kendall County Judge	With a copy to:	Purchasing Agent
201 E. San Antonio Ave.,		Attn: Sharon Barter
Boerne, TX 78006		201 E. San Antonio Ave.,
		Boerne, TX 78006

Vendor: Address listed on the Purchase Order, unless provided alternative address.

16. **PAYMENT:** County shall review such invoices and approve them within thirty (30) calendar days with such modifications as are consistent with this Agreement. If County disputes charges related to the invoice submitted by Vendor, County shall notify Vendor no later than twenty-one (21) days after the date County receives the invoice. If

County does not dispute the invoice, then County shall pay each such approved invoice within thirty (30) calendar days. Interest resulting from late payments by County shall be subject to Chapter 2251, Texas Government Code. Payment inquiries should be directed to Kendall County Auditor's Office, Accounts Payable Department.

17. TERM AND TERMINATION.

- (a) The Term of the Purchase Order ("Initial Term") is effective upon execution by the County ("Effective Date") and continues thereafter for a period of one (1) year, unless and until sooner terminated as provided in this Section 17.
- (b) Upon expiration of the Initial Term, the Purchase Order shall automatically renew for an additional one (1) year term(s) unless either Party provides written notice of nonrenewal at least thirty (30) days prior to the end of the then-current term (each a "Renewal Term" and together with the Initial Term, the "Term"), or unless sooner terminated as provided in this Section 17. If the Term is renewed for any Renewal Term(s) pursuant to this Section, the terms and conditions of this Purchase Order during each such Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal, subject to any change in the fees/amounts payable hereunder by County during the applicable Renewal Term. If either Party provides timely notice of its intent not to renew this Purchase Order, then, unless otherwise sooner terminated in accordance with its terms, this Purchase Order shall terminate on the expiration of the then-current Term.
- (c) The purchase of any service or product under the Purchase Order beyond a one-year term, is contingent upon the availability of appropriated funds. County shall have the right to terminate the Purchase Order at the end of the current or each succeeding fiscal year if funds are not appropriated by the Kendall County Commissioners Court for the next fiscal year that would permit continuation of the Purchase Order. If funds are withdrawn or do not become available, County reserves the right to terminate the Purchase Order by giving the Vendor a thirty (30) day written notice of its intention to terminate without penalty or any further obligations on the part of County or the Vendor. Upon termination of the Purchase Order, County shall not be responsible for any payment of any service or product received that occurs after the end of the current fiscal year or the effective date of termination, whichever comes first. County's fiscal year begins on October 1 and ends of September 30th.
- (d) Termination For Convenience: County may, at its option and discretion, terminate the resulting Purchase Order for convenience and may reduce the statement of work or other requirements of the Purchase Order at any time, without any default or further liability on the part of County or Vendor, upon no less than thirty (30) calendar days written notice to the Vendor. In the event County exercise its right to terminate without cause, it is understood and agreed that only the amounts due to the Vendor for goods, commodities and/or services provided, and expense incurred to and including the date of termination, will be due and payable. No penalty will be assessed for the County's termination for convenience.
- (e) Termination For Default: County may terminate the Purchase Order immediately for default, by giving written notice thereof to the Vendor, if the Vendor fails to execute the work properly, performs in a manner that is unsatisfactory to County, breaches any terms, conditions, covenants, or provisions of the Purchase Order or otherwise fails to meet its obligations under the Purchase Order. In the event of termination for default, County shall have against Vendor, all remedies provided by law and equity; including, but not limited to, procuring the goods or services from other sources and charging the Vendor as liquidated damages any excess cost or damages occasioned thereby. County may, in its sole discretion, grant Vendor a reasonable opportunity to cure Vendor's default depending on the nature of the breach or default.
- (f) If, after termination, it is determined for any reason whatsoever that Vendor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 17(d).
- (g) Upon termination of the Purchase Order, County shall compensate Vendor in accordance with Section 17 for those services which were provided under the Purchase Order prior to its termination and which have not been previously invoiced to County. Vendor's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 16 above.
- (h) If County terminates the Purchase Order as provided in this Section 17, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Vendor.
- (i) If County terminates the Purchase Order prior to the termination date, County shall not be subject to any early termination fee or other penalty.

18. OWNERSHIP AND REUSE OF DOCUMENTS AND DATA.

- (a) All documents, data, reports, research, graphic presentation materials, etc., developed by Vendor as a part of its work under the Purchase Order Documents, shall become the property of County upon completion of the Purchase Order Documents, or in the event of termination or cancellation thereof, at the time of payment under Section 21 for work performed. Vendor shall promptly furnish all such data and material to County on request. For the purposes of clarity, any Intellectual Property of Vendor is not subject to ownership by the County. This includes all work product that is derivative of any intellectual property of Vendor.
- (b) County Data shall be Confidential Information of County under the Purchase Order Documents. As between Vendor and County, County shall own all right, title and interest in and to the County Data, which shall never be deemed to be the service or work product, even if delivered or incorporated therewith. Vendor shall have no responsibility, whatsoever, for the accuracy, quality, legality, reliability, appropriateness, and intellectual property ownership of County Data, and Vendor shall not review, monitor or check the County Data except as necessary to provide the service to County. Vendor shall not be responsible or liable for the deletion, destruction, damage or loss of any County Data through no fault of Vendor or its providers without limiting Vendor's liability to maintain backup data as set forth in the Purchase Order Documents. Upon County's written request within thirty (30) days following the termination of the Purchase Order Documents, Vendor will at its expense provide electronic files to County in delimited text format containing County Data.

19. RIGHT TO AUDIT: Vendor agrees that County or its duly authorized representatives shall, until the expiration of three (3) years after termination or expiration of the services to be performed, have access to and the right to examine and photocopy any and all books, documents, papers and records of Vendor, which are directly pertinent to the services to be performed or goods to be delivered for the purposes of making audits, examinations, excerpts and transcriptions. Vendor agrees that County shall have access during normal working hours to all necessary facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County shall give Vendor reasonable advance notice of intended audits.

20. VENUE AND GOVERNING LAW: The Purchase Order Documents shall be construed and interpreted solely in accordance with the laws of the State of Texas, without regard to its choice of law provisions. Venue of any suit, right or cause of action arising under or in connection with the Purchase Order Documents shall be exclusively in Kendall County, Texas. County does not agree to submit disputes arising out of the Purchase Order Documents to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by Comp. in any way associated with the Purchase Order Documents.

21. CERTAIN STATE LAW REQUIREMENTS FOR CONTRACTS: The contents of this Section 21 are required by Texas law and are included by County regardless of content.

- (a) PROHIBITION ON INVESTING PUBLIC MONEY IN CERTAIN INVESTMENTS: As provided by Tex. Gov't Code Ann. §§ 2270.001 et seq., as amended, by accepting this Purchase Order, the Vendor (Professional or other applicable term defining the contracting party) verifies represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization and the Vendor will not engage in business with Iran, Sudan, or a foreign terrorist organization during the Term of the Purchase Order.
- (b) BOYCOTTING ISRAEL: As provided by Tex. Gov't Code Ann. § 2271.002, by accepting this Purchase Order, the Vendor (Professional or other applicable term defining the contracting party) verifies that it does not boycott Israel and agrees that during the Term of the Purchase Order.
- (c) PROHIBITED TRANSACTIONS: As provided by Tex. Gov't Code Ann. § 2273.003, by accepting this Purchase Order, the Vendor (Professional or other applicable term defining the contracting party) verifies that it is not an abortion provider or an affiliate of an abortion provider and the Vendor will not be abortion provider or an affiliate of an abortion provider during the Term of the Purchase Order.
- (d) PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARM AND AMMUNITION INDUSTRIES: As provided by Tex. Gov't Code Ann. § 2274.002, by accepting this Purchase Order, the Vendor (Professional or other applicable term defining the contracting party) verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate against a firearm entity or firearm trade association during the Term of the Purchase Order.

- (e) PROHIBITION ON CONTRACTS WITH CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE: As provided by Tex. Gov't Code Ann. §§ 2275.001 et seq., as amended, by accepting this Purchase Order, the Vendor (Professional or other applicable term defining the contracting party) verifies that the Vendor is not a company prohibited from contracting with County and the Vendor will not be prohibited from contracting with County during the Term of the Purchase Order.
- (f) BOYCOTTING ENERGY COMPANIES: As provided by Tex. Gov't Code Ann. § 2276.002, by accepting this Purchase Order, the Vendor (Professional or other applicable term defining the contracting party) verifies that it does not boycott energy companies and will not boycott energy companies during the Term of the Purchase Order.
22. **ASSIGNMENT**: Vendor shall not sell, assign, transfer or convey this Purchase Order, in whole or in part, without the prior written consent of County. No change of the Vendor will be recognized until such change is approved by Commissioners Court.
23. **ETHICS CONDUCT**: Any breach of any County ethics policies, rules or regulations; any violation of any ethics laws or prohibitions; and any direct or indirect actions taken to unduly influence competitive processes, or to disregard ethical and legal trade practices may disqualify Vendor from current and future consideration for participation in County solicitations, proposal awards, and contracts.
24. **DISPUTE RESOLUTION**: Any controversy or claim arising out of or relating to the Purchase Order Documents will be settled in the following manner:
- (a) Senior executives representing each of County and Vendor will meet to discuss and attempt to resolve any such controversy or claim;
  - (b) If such controversy or claim is not resolved as contemplated by clause (a), County and Vendor will, by mutual consent, select an independent third party to mediate such controversy or claim, provided that such mediation will not be binding upon any of the parties; and
  - (c) If such controversy or claim is not resolved as contemplated by clauses (a) or (b), the parties will have such rights and remedies as are available under the Purchase Order Documents or, if and to the extent not provided for in the Purchase Order Documents, are otherwise available.
25. **NON-WAIVER OF DEFAULTS**: Any failure of County, at any time or from time to time, to enforce or require the strict keeping and performance of any of the terms and conditions of the Purchase Order Documents, or to exercise a right hereunder, shall not constitute a waiver of such terms, conditions, or rights, and shall not affect or impair the same, or the right of County at any time to avail itself.
26. **UNIFORM COMMERCIAL CODE**: Vendor and County agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.
27. **VARIATION IN QUANTITY**: No variation in the quantity of any item called for by this Purchase Order shall be allowed, unless such variation is caused by conditions of loading, shipping, packing or allowances in manufacturing processes, and then only to the extent, if any, set forth herein.
28. **WARRANTY**: All warranties contained herein or made by Vendor in connection herewith shall survive termination of this Purchase Order. In addition to all warranties established by law, Vendor hereby represents, warrants and covenants to County that:
- (a) All good and service covered by the Purchase Order shall conform to the specifications, drawings, samples or other descriptions set forth herein or otherwise furnished or adopted by County, and shall be merchantable, fit for the purpose intended, of best quality and workmanship, and free from all defects and that the Vendor will perform reasonably and in good faith;
  - (b) All goods delivered pursuant to the Purchase Order shall conform to standards established for such goods in accordance with any applicable Federal, State or local laws and regulations, unless otherwise indicated herein;
  - (c) It has all necessary intellectual property rights and other use rights and other use rights necessary to perform its obligations hereunder and that the drawings or specifications produced for County, do not infringe on any patent, trademark, service mark, copyright, or other third-party intellectual property right.

29. **DAMAGE TO COUNTY PROPERTY:** Vendor shall be liable for all damage to county owned, leased, or occupied property and equipment caused by Vendor and its employees, agents, subcontractors, and suppliers, including any delivery or transporting company, in connection with any performance pursuant to the Purchase Order. Vendor shall notify County in writing of any such damage within one (1) calendar day.
30. **PUBLICITY:** Vendor shall not use County's name, logo, or other likeness in any press release, marketing materials, or other announcement without the County's prior written approval.
31. **FORCE MAJEURE:** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("force majeure occurrence"). If a Force Majeure Occurrence will delay Vendor in the performance of its obligations under this Purchase Order, Vendor shall promptly notify County in writing of such condition and cause thereof no later than ten (10) days after the Force Majeure Occurrence. However, in the event of a Force Majeure Occurrence, Vendor agrees to use its best efforts to mitigate the impact of the occurrence.
32. **UNDERSTANDING, FAIR CONSTRUCTION:** By execution of this Purchase Order, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Purchase Order. This Purchase Order, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.
33. **RIGHTS, REMEDIES, AND OBLIGATIONS:** The rights, and obligations contained in this Purchase Order shall pertain solely to the parties executing the Purchase Order. This Purchase Order shall not be construed or deemed to create any rights or remedies for any third parties or any other person who is not a party hereto.
34. **SEVERABILITY:** In case any one or more of the provisions contained in these Purchase Order Documents shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and these Purchase Order Documents shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
35. **THIRD PARTY RIGHTS:** Nothing in these Purchase Order Documents, whether express or implied, will be construed to give any person or entity (other than the parties hereto and their permitted successor and assigns) any legal or equitable right, remedy, or claim under or in respect of any terms or provisions contained in these Purchase Order Documents or any standing or authority to enforce the terms and provision of these Purchase Order Documents. Nothing contained herein shall be construed to or operate to create any rights in any person, party, or entity who is not a party to this Purchase Order including, but not limited to, any rights in the nature of a third-party beneficiary.
36. **COUNTERPARTS; ELECTRONIC/DIGITAL SIGNATURES:** The Purchase Order Documents may be executed by one or more of the parties hereto in any number of separate counterparts, and all of such counterparts taken together shall be deemed to constitute one and the same instrument. The parties to this Purchase Order agree that the electronic and/or digital signatures of the parties included in this Purchase Order are intended to authenticate this writing and to have the same force and effect as the use of manual signatures.

**SIGNATURES FOLLOW ON NEXT PAGE**