

Terms and Conditions

The **PURCHASE ORDER** constitutes a binding contract between the South Florida Water Management District (hereinafter the "**DISTRICT**") and the "**CONTRACTOR/VENDOR**" as is named on the reverse side of the **PURCHASE ORDER**, when accepted by the **CONTRACTOR/VENDOR**, either by express acknowledgment, by commencement of shipment without reservations, or by commencement of performance of services.

GENERAL CONDITIONS

ASSIGNMENT/DELEGATION: No right, obligation or interest in this PURCHASE ORDER shall be assigned or delegated by the CONTRACTOR/VENDOR without the prior written consent of the DISTRICT. Any such unauthorized assignment or delegation by CONTRACTOR/VENDOR shall be void and may render this PURCHASE ORDER void, at the sole option of DISTRICT, without prejudice to DISTRICT'S other rights and remedies.

FORCE MAJEURE: Neither party shall be held responsible for losses resulting, if the fulfillment of any terms or provisions of this PURCHASE ORDER is delayed or prevented by unforeseeable causes including but not restricted to acts of God, restraint of Government, or for any other cause which is unavoidable through the exercise of due care, and beyond the control of the party who is to perform.

APPLICABLE LAW AND VENUE: This PURCHASE ORDER and all rights and duties of the parties hereto shall be governed by the laws of the State of Florida, including but not limited to the provisions of the Florida Uniform Commercial Code, Chapters 671 - 679, F.S, for any terms and conditions not specifically stated in this PURCHASE ORDER. Venue for any court action regarding this PURCHASE ORDER will lie with either the U.S. District Court of the Southern District of Florida, the 4th District Court of Appeals, or the Circuit Court of the Fifteenth Judicial Circuit, in West Palm Beach, Florida.

INDEMNIFICATION: For value received, the CONTRACTOR/VENDOR shall defend, indemnify, save, and hold the DISTRICT, its agents, assigns, and employees, harmless from any and all claims or causes of action, including without limitation, all damages, liabilities, expenses, costs, and attorney's fees related to such claims resulting from any negligent or intentional act or omission, or the violation of any federal, state, or local law or regulation, by the CONTRACTOR/VENDOR, its subcontractors, agents, assigns, invitees, or employees in connection with this PURCHASE ORDER. CONTRACTOR/VENDOR also agrees to save and hold harmless the DISTRICT, its employees and agents for infringement of any United States patent, trademark, or copyright for or on account of the use of any product sold to the DISTRICT or used in the performance of this PURCHASE ORDER.

INSURANCE: The CONTRACTOR shall procure and maintain, through the term of this PURCHASE ORDER, insurance coverage reflecting, at a minimum, the limits and coverage conditions identified on the DISTRICT'S Certificate of Insurance, attached and made a part of this PURCHASE ORDER. The coverage required shall extend to all employees and subcontractors of the CONTRACTOR. The attached DISTRICT Certificate of Insurance shall be completed in full, indicating the producer, insured, carrier's name and Best rating, policy numbers and effective and expiration dates of

each type of coverage required. The Certificate shall be signed by the insurance carrier's authorized representative.

MODIFICATIONS: This PURCHASE ORDER may be modified or rescinded only in writing, signed by the parties' duly authorized agents.

INTERPRETATION — PAROL EVIDENCE; INTEGRATION: This PURCHASE ORDER states the entire and final understanding between the parties and no course or prior dealing, usage of the trade, or extrinsic or parol evidence shall be relevant to supplement, vary or explain any term used. The Florida Uniform Commercial Code (Chapters 671-679, F.S.) shall control definitions. The acceptance or acquiescence of any course of performance rendered under this PURCHASE ORDER shall not be construed as a waiver nor shall it be relevant to define or vary any term stated herein.

TERMINATION FOR DEFAULT: If either party fails to fulfill its obligations under this PURCHASE ORDER in a timely and proper manner, the other party shall have the right to terminate this PURCHASE ORDER by giving written notice of any deficiency. The party in default shall then have ten (10) calendar days from receipt of notice to correct the deficiency. If the defaulting party fails to correct the deficiency within this time, this PURCHASE ORDER shall terminate at the expiration of the ten (10) day time period.

PUBLIC ACCESS: The CONTRACTOR/VENDOR shall allow public access to all documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should the CONTRACTOR/VENDOR assert any exemptions to the requirements of Chapter 119, F.S., and related Statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the CONTRACTOR/VENDOR.

PUBLIC ENTITY CRIMES AFFIDAVIT: If the purchase on the reverse side of this PURCHASE ORDER exceeds \$10,000, the CONTRACTOR/VENDOR, by its execution of this PURCHASE ORDER, acknowledges that it has executed an affidavit (FORM PUR 7068) pursuant to Section 287.133(3)(a), F.S., attached hereto and made a part of this PURCHASE ORDER, either previously or concurrently hereto, affirming that the CONTRACTOR/VENDOR is not identified as being barred from entering into this PURCHASE ORDER with the DISTRICT, and that the CONTRACTOR/VENDOR understands that it remains bound by said statute and affidavit, as therein specified. The CONTRACTOR/VENDOR further understands and acknowledges by its execution of this PURCHASE ORDER, that this PURCHASE ORDER shall be null and void, and/or that this PURCHASE ORDER is subject to immediate termination by the DISTRICT, for any misstatement or lack of compliance with the mandates of said statute. The DISTRICT, in the event of such termination, shall not incur any liability to the CONTRACTOR/VENDOR for any work or materials furnished.

RECORDS/AUDIT: The CONTRACTOR/VENDOR shall maintain books, records and documents pertinent to performance under this PURCHASE ORDER in accordance with generally accepted accounting principles consistently applied. The DISTRICT shall have inspection and audit rights to such records for audit purposes during the term of the contract and for three years following the termination of obligations hereunder. Records which relate to any litigation, appeals or settlements of claims arising from performance under this PURCHASE ORDER shall be made available until a final disposition has been made of such litigation, appeals or claims.

TAX EXEMPT: The DISTRICT is exempt from federal and state taxes for tangible personal property. The CONTRACTOR/VENDOR shall not be exempted from paying any applicable taxes to the appropriate governmental agencies or for payment by the CONTRACTOR/VENDOR to suppliers for taxes on materials used to fulfill its contractual obligations with the DISTRICT. The CONTRACTOR/VENDOR shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes resulting from this PURCHASE ORDER.

INVOICES AND PAYMENTS: The CONTRACTOR/VENDOR shall submit a separate invoice on each purchase order or purchase release after each delivery, and each such invoice shall reference the DISTRICT'S Purchase Order Number. Invoices for other than lump sum payments shall include an itemization of the date, amount of time expended, a description of the provided and, if applicable, transportation charges, the bill of lading and the freight waybill. Failure by the CONTRACTOR/VENDOR to follow these instructions shall result in an unavoidable delay of payment by the DISTRICT. The DISTRICT shall pay the full amount of the invoice within Thirty (30) days of receipt and acceptance, provided the CONTRACTOR/VENDOR has performed the work according to the terms and conditions of this PURCHASE ORDER. All invoices shall be mailed to ACCOUNTS PAYABLE, South Florida Water Management District, P.O. Box 24682, West Palm Beach, FL 33416-4680.

COMPLIANCE: The CONTRACTOR/VENDOR, its employees, subcontractors or assigns, shall comply with all applicable federal, state, and local laws and regulations relating to the performance of this PURCHASE ORDER. The DISTRICT undertakes no duty to ensure such compliance, but will attempt to advise the CONTRACTOR/VENDOR, upon request, as to any such laws of which it has present knowledge.

NONDISCRIMINATION: The CONTRACTOR/VENDOR hereby assures that no person shall be excluded on the grounds of race, color, creed, national origin, handicap, age, or sex, from participation in, denied the benefits of, or be otherwise subjected to discrimination in any activity under this PURCHASE ORDER. The CONTRACTOR/VENDOR shall take all measures necessary to effectuate these assurances.

ADDITIONAL CONDITIONS GOVERNING SERVICES

DISTRICT'S TITLE TO MATERIALS, DOCUMENTS & PACKAGING: All materials, drawings or other items provided by DISTRICT to the VENDOR remain the property of DISTRICT and will be returned to DISTRICT upon demand. All containers, reels or pallets shipped with goods by the VENDOR are to remain the property of DISTRICT unless otherwise agreed in writing.

SHIPMENT UNDER RESERVATION PROHIBITED: VENDOR is not authorized to ship the goods with any reservations and no tender of a bill of lading will substitute as a tender of the goods.

DELIVERY TERMS & TRANSPORTATION CHARGES: Delivery is "F.O.B. destination" unless delivery terms are specified otherwise in the PURCHASE ORDER. If DISTRICT agrees in writing to reimburse VENDOR for transportation costs, DISTRICT shall have the right to designate the method of shipment. In either case, the title and all risk of loss of the goods shall remain with the VENDOR until the

goods are received and accepted by DISTRICT. Rejected materials will be returned to the CONTRACTOR/VENDOR at the CONTRACTOR/VENDOR'S risk and expense.

NOTIFICATION OF TOXIC SUBSTANCE: Pursuant to the federal standard as contained in OSHA 29 CFR 1910.1200 and Chapter 442, Florida Statutes, as may be amended, the VENDOR, upon acceptance of this PURCHASE ORDER shall advise the DISTRICT if any good(s) ordered is a toxic substance and, in such case, VENDOR shall mail or otherwise deliver to DISTRICT'S "DIRECTOR OF RISK MANAGEMENT", 3301 Gun Club Road, West Palm Beach, FL 33406, a Material Safety Data Sheet (MSDS) at least ten (10) days prior to shipment of DISTRICT'S order.

VENDOR TO PACKAGE GOODS: VENDOR will package goods in accordance with good commercial practice. Each shipping container shall be clearly and permanently marked as follows: (a) VENDOR'S name and address (b) consignees name, address and Purchase Order or Purchase Release number (c) container number and total number of containers, e.g., box 1 of 4 boxes; and, (d) the number of the container bearing the packing slip. VENDOR shall bear cost of packaging unless otherwise specified in the Purchase Order.

PRICES QUOTED: The VENDOR'S price will be the lowest prevailing market price and under no circumstances will the price be higher than specified, without the express written authorization of the VENDOR, as evidenced by a change order to the PURCHASE ORDER.

DISTRICT'S RIGHT TO CANCEL: DISTRICT reserves the right to cancel all or part of this Purchase Order, without obligation, if acceptance is not expressed by DISTRICT either through written notice or by delivery of items ordered, within the specified time(s) and date(s).

VENDOR NOT TO LIMIT WARRANTY: VENDOR shall not limit or exclude any express or implied warranties and any attempt to do so shall render this PURCHASE ORDER void, at the option of the DISTRICT. VENDOR warrants that the goods furnished will conform to the specifications, drawings, and descriptions listed in the offering document, or to sample(s) furnished. In the event of any conflict between the specifications, drawings, description or sample, the specifications shall govern.